

A. National Assembly Bills Resolution

1. CIVIL SERVICE BILL

Introduction, Background and Purpose of the Bill

The Minister for Labour and Employment while introducing the Bill along with the purpose of drafting the Bill submitted that the management and the administration of the Civil Servants were based on Royal Charter of 1982. However Article 26 of the Constitution provides for an independent and apolitical civil service that will be discharged in an efficient, transparent and accountable manner.

The main objective of the Bill which contains 12 chapters and 98 sections are based on the policy of ‘small, compact and efficient’ civil service and all civil servants in three branches of the Government including autonomous agencies and Constitutional bodies shall comply with the Civil Service Act under the Royal Civil Service Commission.

Whereas, according to Article 26 Section 5 of Constitution of the Kingdom of Bhutan, the Commission shall, in the interest of promoting merit, productivity and equity, ensure that uniform rules and regulations on recruitment, appointment, staffing, training, transfers and promotion prevail throughout the civil service and accordingly section 8 of the same Article makes Royal Civil Service Commission as the Central personnel agency of the government.

The main objective for having a Civil Service Bill is in consonance with His Majesty’s appointment of the Royal Civil Service Commission in accordance with the provisions of the

Constitution on 30th January 2009. For people to have faith in democracy, the economic development of the country through efficient, transparent and accountable civil service is necessary. Thus, it is necessary that the Bill be adopted in this session only.

Following are the amendments made to the Bill as follows:

1) Preamble

Whereas, the Constitution of the Kingdom warrants the strengthening of the Civil Service to create conditions conducive for promotion of Good Governance and realization of the vision of Gross National Happiness, thereby establishes the Royal Civil Service Commission as an independent, and apolitical Agency a single and **the central personnel agency of the Government** to discharge public duties in an efficient, transparent and accountable manner; and

Whereas, it is expedient to enact an umbrella Civil Service Act to provide for a “small, compact and efficient” Civil Service in the Royal Government and to ensure effective utilization of human resources by ensuring uniformity of personnel policies and Actions across the Civil Service **in pursuant to Article 26 of the Constitution of the Kingdom of Bhutan.**

2) Section 2(d)

~~The relevant sections of the Judicial Service Act 2007 pertaining to personnel Actions of civil servants be repealed or amended as per sections 4, 5, 6, 7, 8 and 9~~

~~of this Act. The Drangpons of all courts under the Judiciary are excluded as they shall be governed by the Judicial Service Act 2007.~~

3) Section 6

Civil servants in all the three branches of the Government, ~~including Autonomous Agencies, and Constitutional Bodies~~ shall function ~~in accordance in~~ **line** with the policies, rules, regulations and procedures framed by the Royal Civil Service Commission.

4) Section 7 New additions

a) Legislature

b) Judiciary

c) ~~Drangpons of all courts under the Judiciary~~ Attorney General

d) Holders of Constitutional Offices and members;

5) Section 8(b)

Provide an umbrella Civil Service Act to ensure parity, consistency and uniformity of personnel Actions within the three branches of the Government, ~~Constitutional Bodies and Autonomous Agencies~~ under the Government:

6) Section after 13 (f)

~~Have rendered a minimum of 20 years of service in case of the Chairperson and 10 years for other members with a clean record either in the Civil Service or Public Sector;~~

- have rendered a minimum of 20 years of service with a clean record either in the Civil Service or Public Sector;**
- 7) **Section 13 (h)**
Not have been convicted of a criminal offence and **sentenced to imprisonment**
- 8) **Section 17**
~~Except the Chairperson, the other members of the Commission shall be eligible for re-appointment for one more term.~~
- 9) **Section 27 moved after section 22**
The Commission shall submit an annual report on its policies and performance, along with a summary of its findings from the periodic personnel audits, to His Majesty the Druk Gyalpo and the Prime Minister.
- 10) **New section after 24**
The members of the Commission shall be accountable to the Chairperson
- 11) **New Section after 34**
The commission as the Central Personal Agency of the Royal Government shall ensure that the civil servants recruitment, promotion, selection for various posts, training, appointments are done in a fair and transparent manner.
- 12) **Section 36 (New additions as c and d)**

- e) **Create, abolish or classify positions**
- f) **Appoint, promote and transfer civil servants.**
- 13) **Section 37(New addition as i)**
 - i) **Provide administrative and legal support to civil servants in respect of decisions taken in good faith or intended pursuant to official duties.**
- 14) **Section 38**

The Commission shall make rules and regulations, called the Bhutan_Civil Service Rules and Regulations (or the BCSR), for effective administration of the Civil Service **in consultation with relevant agencies.**
- 15) **New section after 38**

The judicial and legislatures' service Council or Commission shall have a member of the RCSC as its member representative.
- 16) **New section after 39**

The Commission shall provide adequate autonomy to the Constitutional offices in relation to recruitment, promotion, transfer and training of their employees.
- 17) **Section 98.9 added under section 47.**
- 18) **Section 49**

A civil servant shall remain apolitical and not be a candidate for election or hold any paid or unpaid posts in any political party. He shall not canvass for **or against** a political party or a politician.

- 19) **Section 54** (new addition after 1)
Refrain from engaging in sexual harassment
- 20) **Section 55(d)**
Access to social and **basic** health care services provided by the Royal Government.
- 21) **Section 59**
~~A Secretary to the Government shall serve one term in position level EX1, which may be extended by one more term if he performs well, or until the superannuation age, whichever comes first, and each term consists of five years.~~
A secretary to the Government shall be in the highest position in the civil service and serve a term of five years or until the superannuation age, whichever is earlier.
- 22) **Section 60**
All civil servants working under the three branches of the Royal Government, including ~~Autonomous Agencies, and Constitutional Bodies~~ shall be appointed in accordance with this Act.
- 23) **Section 68**
The Commission shall ~~establish an institute and/or~~ identify one or more of the existing Colleges/Institutes in the Kingdom for conducting pre-service and in-service trainings of civil servants.

24) **Section 72**

The Commission shall grant promotion to an eligible civil servant, subject to such conditions prescribed by the BCSR **which must inevitably include proven leadership and positive feedback for the promotion of a senior civil servant to grade three and above.**

25) **New section after 72**

There shall be no retroactive promotion.

26) **Section 75**

The Commission shall determine the placement of a civil servant as the Head of an Agency other than the **Head of the Ministry** ~~those~~ prescribed by the BCSR from time to time.

27) **Section 82**

A civil servant shall retire on the date of completing the superannuation age as prescribed by the BCSR **and no extension shall be permitted.**

28) **Section 85**

The competent authority may at any time, by notice in writing, require a civil servant to retire compulsorily with ~~or without~~ post service benefits from the service on such grounds as prescribed by the BCSR.

29) **Section 87**

~~A civil servant shall be terminated from service if he is:~~

~~(a) convicted by the court of law for a criminal offence;~~

~~(b) guilty of an offence which is considered gravely injurious to the State; or~~

~~(c) guilty of an offence liable to lead to serious loss of confidence in the Civil Service.~~

A civil servant shall be terminated from service if he or she is convicted by the court of law for a criminal offence of misdemeanor and above for offences related to official functions.

30) New section after 87

A civil servant shall be compulsorily retired from the service with post service benefit if he or she is convicted by the court of law for a criminal offence of misdemeanor and above for offences not related to official functions.

31) Section 92

The Commission shall ~~[endeavour] to~~ protect a civil servant or an agency from false allegation or defamation leveled by any person or party while discharging his duties and responsibilities in accordance with rules and regulations.

32) Section 93

~~The Commission is the ultimate guardian for all civil servants in the Kingdom. As such, a civil servant shall not be prosecuted for any matter in respect of Civil Service directly by any party in a court of law without;~~

~~(a) routing the case through the Commission, and~~

~~(b) exhausting all the administrative Actions as specified in the BCSR.~~

A civil servant shall not be prosecuted for any matter in respect of civil service directly by any party in a court of law without, consulting the commission.

33) Section 98.1

Agency means a Ministry, **Constitutional office**, Autonomous Agency, Dzongkhag, Gewog, Thromde, Office or a statutory Agency of the Royal Government.

34) Section 98.3

~~**Appellate Disciplinary Authority** means the Ministerial Disciplinary Committee in relation to the Dzongkhag or Agency under the Ministry and the RCSC in relation to the Ministerial Disciplinary Committee.~~

Appellate Authority means the administrative tribunal for appeal cases from the RCSC, the RCSC for appeal cases from Ministries and agencies and the Ministry for appeal cases from departments and Dzongkhags.

35) New section after 98.15

Constitutional bodies and Autonomous agency shall be considered as part of one of the three branches of the Royal Government.

36) Section 98.22

Head of Agency means the Secretary to the Government, Secretary General of the respective

Houses, department, ~~Head of Ministry~~, Autonomous Agency, Dzongkhag, Gewog, Thromde, Office or a statutory Agency of the Royal Government.

37) New sections after 98.23

Head of Gewog means the Gup.

38) New section as 98.24

Head of Thromde means the Thrompon.

The Hon'ble Labour and Human Resource Minister moved the motion to adopt the Civil Service Bill and subsequently the Hon'ble Members passed the Bill by show of hands on 9th July 2009 at 11.30 hrs.

2. LOCAL GOVERNMENT BILL, 2009

The Home and Cultural Affairs Minister introduced the Local Government Bill and submitted that the reason for drafting the Bill was because His Majesty the 4th Druk Gyalpo having realized the importance of having a Local Government for the development of the country established the Dzongkhag Yargay Tshogchung in 1981 and Gewog Yargay Tshogchung in 1991 following which the responsibility and the power to formulate development related plans were devolved to the Local Government and its people. To carry out the responsibilities and use the power efficiently a need for an Act was felt and therefore during the 80th session of the National Assembly GYT and DYT Act, 2002, was enacted. With the change in time and the development

of the country, the earlier two Acts were amended and a new Local Government Act, 2007 was endorsed.

While endorsing the Constitution in the first session of the first Parliament, the discussion for re deliberation on the Local Government Act, 2007 was brought to light, following which it was resolved that the Local Government Act, 2007 be reviewed and tabled it during the Second session. The main reason for having to review the Local Government Act 2007 was to strengthen the Local Government according to Article 22 of the Constitution and also to harmonize the sections of the said Act with that of the Election Act of Bhutan.

The main bodies that need to be included in the Local Government Bill, 2009 are:

- a) Dzongkhag Tshogdu
- b) Gewog Tshogde
- c) Thromde Tshogde.

Hon'ble Minister requested the Members to support the motion for the review and deliberation of the Bill which is being reviewed and transmitted by the National Council to National assembly to be reviewed and endorsed during the third session. The Bill contains 18 chapters with 294 sections.

National Assembly made the following changes to the Bill.

1. Third paragraph on the Preamble

~~Whereas, it is expedient to amend and converge the laws relating to Local Governments under one Act;~~

2. Section 2

Upon enactment of this Act, the Local Governments' Act, 2007, and the Thromde Act, 2007; **Dzongkhag Yargay Tshogdu Chathrim, 2002; Gewog Yargay Tshogchung Chathrim, 2002** and any law, bye-law, regulation, circular and order inconsistent with this Act shall be repealed.

3. Section 4

Local Government shall comprise of:

- a) ~~Dzongkhag Tshogdu supported by Dzongkhag Administration in each Dzongkhag;~~
- b) ~~Gewog Tshogde supported by Gewog Administration in each Gewog; and~~
- c) ~~Thromde Tshogde supported by Thromde Administration in each Dzongkhag Thromde.~~

4. Section 179 of Chapter 14 brought forward and endorsed as:

- Each Dzongkhag shall have a Dzongkhag Tshogdu, which shall be the highest decision making body in the Dzongkhag.

5. Section 180 of Chapter 14 brought forward and endorsed as:

The Dzongkhag Tshogdu shall comprise:

- a) Gup and Mangmi as the two elected representative from each gewog;

- b) One elected representative from that Dzongkhag Thromde; and
 - c) One elected representative from Dzongkhag Yenlag Thromdes.
6. **Section 200 of Chapter 15 brought forward and endorsed as:**
- Each Gewog shall have a Gewog Tshogde, which shall be the highest decision making body in the Gewog.
7. **Section 201 of Chapter 15 brought forward and endorsed as;**
- The Gewog Tshogde shall comprise:
- a) The Gup and Mangmi; and
 - b) Not less than five and not more than eight elected Tshogpas.
8. **New section inserted after the above section**
- A Thromde shall be a Dzongkhag Thromde or Dzongkhag yenlag Thromde in accordance with the Constitution of Kingdom of Bhutan.**
9. **Section 220 of Chapter 16 brought forward and amended as follows:**
- ~~The Parliament shall establish from time to time a certain geographical, administrative or economical area of the country as a Thromde.~~
- Notwithstanding the provision of the of the Land Act, Royal Government shall, by an executive order, declare an area of Dzongkhag as Dzongkhag Thromde or area(s) of Dzongkhag Yenlag Thromde(s) based on the recommendations and criteria prescribed by the Ministry responsible for urban development.**

10. Section 226 of Chapter 16 brought forward and amended as follows:

In establishing Dzongkhag Thromde Tshogdes or Dzongkhag Yenlag Thromdes, the Ministry responsible for urban development shall take into account the following criteria:

- a) Population of the area;
- b) Density of Population;
- c) Area of Thromde;
- d) Revenue generated for the maintenance of its services;
- e) ~~Percentage of employment in non-primary Activities and agricultural business Activities;~~ and
- f) Trade and commercial significance.

11. Section 223 of Chapter 16 brought forward and amended as follows:

~~There shall be a Thromde Tshogde for each Dzongkhag which shall be the highest decision making body.~~

The Thromde Tshogde shall be the highest decision making body of the Dzongkhag Thromde.

12. Section 225 of Chapter 16 brought forward and amended as follows:

~~The Thromde Tshogde shall consist of:~~

- a) ~~The Thrompon, who is directly elected as the Chairperson; and~~
- b) ~~The Thromde Thuemis of not more than 10 and not less than seven elected members.~~

Thromde Tshogde shall consist of not less than seven and not more than ten elected members, including the Thrompon.

13. New Section inserted as section 16:

Where no Thromde Tshogde has been established the Thromde administration shall function under Dzongkha Administration or Gewog Administration. Such Thromde shall function in keeping with the policies, plans and rules and regulations approved by the Ministry responsible for urban development.

14. Section 7 to 24 inserted under Powers and functions of Local Government.

15. Section 26

Local Government, unless sooner dissolved, shall continue for five years from the date of the first sitting, **which shall be convened within thirty days of declaration of election results.**

16. Section 27

A person shall be qualified to be elected as a member of a Local Government, if he/she is:

- a) A citizen of Bhutan as evidenced by citizenship identity card;
- b) Registered in the civil registry of the government pertaining to that constituency and having his/her gung or mitsi in that place for not less than one year before the qualifying date of election;

c) Of the minimum age of twenty five years and maximum of sixty five years at the time of filing nominations; and

d) Functionally literate and possesses skills adequate to discharge his/her responsibilities as certified by the Election Commission of Bhutan or possessing a formal degree in the case of candidates for Thrompon.

*** Fulfill other requirements as specified in the Constitution and the Electoral Laws.**

17. Section 28 to 32 deleted and replaced by a new section as follows:

A candidate to Local Government elections shall be disqualified in accordance with the provisions of the electoral laws of Bhutan.

18. New Section

Any disqualification under this Act or Electoral laws, during the election period, shall be decided by the Election Commission of Bhutan.

19. Section 36

If the Chairperson is absent or if the member who intends to resign is the Chairperson, the letter of resignation shall be submitted to the ~~officiating Chairperson~~ Deputy Chairperson.

20. New section after section 37

A Chairperson of the Dzongkhag Tshogdu may resign in the manner provided under section ... but

shall continue to be a member of Dzongkhag Tshogdu and Gewog Tshogde.

21. Section 39

~~Membership of a Local government shall be terminated upon incurring any disqualification laid down in this Act and in accordance with the procedures established by law.~~

A member of a Local Government shall be removed upon incurring any of the following disqualifications and in accordance with the procedures established by law, if he or she:

- (a) Becomes a registered member of a political party;**
- (b) Engages in any party politics or Activities;**
- (c) Is convicted for a criminal offence and sentenced to imprisonment;**
- (d) Marries to a person who is not a citizen of Bhutan;**
- (e) Holds any office of profit under the government or public company or public corporation;**
- (f) Acquires the citizenship of another country;**
- (g) Brings disrepute to Local Government by personal conduct;**

- (h) **Non-attendance for more than two consecutive sessions of the Local Government without the leave of absence from authorized person; or**
- (i) **Commits any willful violation of the Constitution, provisions of this Act or any other law.**

22. Section 40

A member of a Local Government shall vacate office upon:

- a) **Dissolution of Local Government;**
- b) Resignation;
- c) ~~Disqualification or removal;~~ or
- d) Prolonged ill health or death.

23. Section 41 and 42 deleted and rephrased as below.

Issue of writ in case of vacancy Bye-Election

- ~~41. Where a vacancy occurs in a Local government for any reason before the expiry of its terms, the Chairperson shall without delay, address a warrant to the Election Officer of the locality for the issue of a writ for elections to fill such vacancy, provided the remainder of the term of local government is not less than six months.~~
- ~~42. Where a vacancy occurs in a Local government and there is no Chairperson of the Local government or the Chairperson is absent from the locality or the member whose seat is vacated is the Chairperson, then that member referred to under section 41 of this Act shall~~

~~address a warrant under his/her hand and seal to the Election officer of the locality for the issue of a writ for elections to fill such a vacancy.~~

Upon vacation of seat by a member, the chairperson or the deputy Chairperson, as the case may be, shall address a notice to the Election Commission of Bhutan immediately to issue a notification calling the constituency to elect a person for filling such vacancy.

Provided that the remainder of the term is not less than one hundred and eighty days.

Election to fill the vacant post shall be held within 30 days from the date of vacancy.

- 24. It was resolved that Section 44 to 54 from the draft is deleted and replaced by the following sections**

Dissolution of Local Government

- * A Local Government may be dissolved by the Government if:
 - (a) It loses the confidence of the people;**
 - (b) Serious short comings are established in the functioning of Local Government; or**
 - (c) Two-third of the members are either removed or resigned.****

- * The appeal calling for the dissolution of the Local Government shall be initiated by more than half of the registered voters of that constituency by filling**

the Registered Voter appeal form on the ground of section .. (a) and shall be submitted to the Dzongdag, Executive Secretary or the Gewog Administrative Officer as the case may be.

- * The appeal calling for the dissolution of the Local Government shall be initiated by the Dzongdag, Executive Secretary or the Gewog Administrative Officer as the case may on the grounds of section.. (b).**
- * If the Local Government is dissolved under section... (c), the Dzongdag, Executive Secretary or the Gewog Administrative Officer shall affect the dissolution order in accordance with this Act.**
- * The appeal submitted under section & above shall be submitted to the Ministry of Home and Cultural Affairs by the Dzongdag, Executive Secretary or the Gewog Administrative Officer as the case may be.**
- * The Department of Local Government shall review the appeal petition and submit its findings to the Ministry.**
- * The Ministry of Home and Cultural Affairs upon satisfaction of the findings submitted by the Department shall either declare the Local Government as dissolved or rejected the appeal.**
- * The dissolution order shall be effected by the Dzongdag, Executive Secretary or the Gewog**

Administrative Officer upon convening the Session of the Local Government.

- * **Upon dissolution of a Local Government, the Election Commission shall conduct the election to reconstitute a new Local Government in accordance with the electoral laws of Bhutan.**

25. It was resolved that section 55 to 63 to be deleted.

26. A new chapter “powers and functions of Local Government” is inserted after chapter 3. Under that the following sections are adopted:

- * **General Powers of Local Government**

Within the overall policy and legal framework, Local Government shall:

- a. **Promote conditions that will enable the pursuit of Gross National Happiness;**
- b. **Provide democratic and accountable government for local communities;**
- c. **Coordinate maintenance of peace, harmony and security in their jurisdictions;**
- d. **Preserve and promote culture and tradition;**
- e. **Promote conditions that are conducive to co-operation in community life and the integrity of the extended family structure;**
- f. **Ensure the provision of such social and economic services for the general wellbeing of the residents**

of the communities in a sustainable and equitable manner;

- g. Promote holistic and integrated area-based development planning;**
- h. Protect monuments and sites of cultural and historical interests;**
- i. Undertake any Activity consistent with other relevant laws and policies of the country which may conserve and enhance the environment within the limits of the areas under its jurisdiction;**
- j. Provide protection for women, children and the physically challenged and eliminate physical, mental and emotional abuse and violence against women and children;**
- k. Protect public health;**
- l. Encourage the involvement of communities and community organizations in matters of local governance; and**
- m. Discharge any other functions as may be prescribed by other laws.**

27. Section 181 of Chapter 14 brought forward and amended as follows:

The Dzongkhag Tshogdu shall, on a written request made by not less than two-third of the total number of members, have the authority to review and ~~quash~~ **revoke** resolutions, ordinances, rules and regulations promulgated by any Gewog Tshogde ~~and Thromde Tshogde~~ on the grounds that such bye-laws, resolutions or ordinances are against public interest.

28. Section 183 of Chapter brought forward and amended as follows:

The Dzongkhag Tshogdu shall:

- a. Promote cooperation amongst Gewogs, Thromdes and Dzongkhags and other agencies;
- ~~b. Promote balanced economic development in the Gewogs and Thromdes in the Dzongkhag;~~
- c. Promote cooperatives and small and medium enterprises which contribute to economic growth, generation of employment and welfare including strategies for marketing of local produce;
- d. Submit motions/resolutions arising from Gewogs and Thromdes and **Dzongkhag** to Parliament and **Royal** government;
- ~~e. Preserve and promote culture;~~
- f. Protect consumers from unfair prices and counterfeit goods in accordance with laws made by Parliament;
- ~~g. Protect public health;~~
- ~~h. Promote sports; and~~
- ~~i. Protect monuments and sites of cultural and historical interests.~~

Preserve and promote culture, protect monuments and sites of cultural and historical interests;

- * **Submit a petition in accordance with the provisions of the National Referendum Act of the Kingdom of Bhutan, and the rules and regulations made thereunder.**

29. Section 184 of Chapter 14 brought forward and amended as follows;

The Dzongkhag Tshogdu shall regulate:

- * **Frame and enforce rules for protecting the health, safety and well being of the people in the Dzongkhag;**
- a) **Regulate** Commercial sale of distillery products, drugs and other harmful substances;
- b) **Regulate** Water, air and noise pollution in accordance with laws made by Parliament **in accordance with law;**
- c) **Regulate** Posting of Billboards, roadside signs, posters, banners and other commercial advertisements to ensure preservation, and enhancement of scenic and aesthetic beauty;
- d) **Regulate content** of Broadcasting and telecasting within the Dzongkhag in accordance with the **Bhutan Information, Communication and Media Act;** and
- e) Prohibit gambling Activities.

30. Section 185 of Chapter 14 brought forward and amended as follows:

Administrative powers and functions

The **Dzongkhag Tshogdu** shall:

- a) Review and endorse ~~Approve~~ Dzongkhag five-year and annual plans **for submission to the Royal Government;**
- b) ~~Prioritize the five year and~~ **Approve Dzongkhag annual plans within the budget ceiling provided by the Royal Government;**
- e) ~~Monitor and evaluate implementation of plan~~ Activities **in the Dzongkhag;** and

- e) ~~Report to the Royal Civil Service Commission on the performance of the Dzongda~~
- **Issue clearance for the establishment of mines and quarries in accordance with the Mines and Minerals Act;**
- f) Perform any other functions as may be prescribed by law.

31. Section 186 of Chapter 15 brought forward and amended as follows:

Financial powers and functions

The **Dzongkhag Tshogdu** shall:

- a) Review and approve Dzongkhag's annual budget proposal prepared by the Dzongkhag Administration based on ~~the approved five year plans~~ **the ceilings for submission to the Ministry of Finance;**
- b. ~~Re-appropriate the Dzongkhag budget~~ **Carry out re-appropriations within the Dzongkhag budget as may be required, as per financial rules and regulations; and**
- c) Review accounts of Dzongkhag Administration

32. Section 203 of Chapter 15 brought forward and amended as follows:

Powers and functions of Gewog Tshogde

Regulatory powers

The Gewog Tshogde ~~shall not be the law making body, and thus shall not have legislative functions while it~~

~~may make rules and regulations consistent with national laws.~~

- a) Frame and enforce rules for protecting the health, safety and well being of the people of the Gewog;**
- b) Regulate and allocate safe and clean drinking water from water supply schemes;**
- c) Regulate allocation of irrigation water in accordance with the provisions of the Land Act of Bhutan;**
- d) Monitor establishment and operation of mines and quarries in consultation with the effected community;**
- e) Regulate the creation and designation of local recreational areas around villages;**
- f) Regulate the protection and harvesting of edible forest products in the community forest in accordance with the Forest and Nature Conservation Act of Bhutan;**
- g) Regulate the maintenance of traditional architectural designs of houses within the broad framework of set national codes;**
- h) Control construction of structures within road right of way in accordance with the Road Act of the Kingdom of Bhutan, and rules and regulations made there under; and**
- i) Prevent illegal construction and all other types of encroachment in community lands as well as on government land and government reserved forest land.**

33. Section 204 of Chapter 15 brought forward and amended as follows:

Administrative powers and functions

The **Gewog Tshogde** shall:

- ~~a) Convene at least three times a year;~~
- ~~b) Report to the Dzongdag on the performance of the Gewog Administrative Officer;~~
- c) Formulate the ~~annual plans~~ and five-year plan of the Gewog **for submission to the Royal Government;**
- d) Submit motions arising from villages for consideration in Dzongkhag Tshogdu;
- e) Monitor, evaluate and ensure the implementation of planned Activities in accordance to the monitoring framework provided by the government;
- f) Be the custodian of ~~communal~~ **Community** lands, community forests, including sokshing, nyekhor tsamdro, medicinal herbs and accordingly prevent illegal house construction and all other types of encroachments in such community lands as well as on government land and forests;
- g) Protect and preserve ney, neykhang of yulha and zhidag, which are not part of custody of monastic body or central agencies;
- h) Preserve and promote driglam choesum;
- i) Organize relief measures during natural disasters and emergencies;
- ~~j) Develop regulatory guidelines for the Gewog;~~

- ~~k) Report to the Dzongkhag Tshogdu; and~~
l) Promote ~~holistic and integrated~~ area-based development planning-

New clauses

- * **Approve Gewog annual plans within the budget ceiling provided by the Royal Government;**
- * **Conserve and protect water sources, lakes, springs, streams, and rivers;**
- * **Prevent the depredation of crops by livestock and wildlife in accordance with the provisions of the Forest and Nature Conservation Act of Bhutan;**
- * **Ensure collection and deposit of premiums for rural insurance and such like schemes.**
- * **Encourage setting up of economic enterprises within the Gewog;**
- * **Accord approval for hiring and mobilization of labour for the upkeep of community facilities in accordance with the rules made by the Royal Government; and**
- * **Perform any other functions as may be prescribed by law.**

34. Section 205 of Chapter 15 brought forward and amended as follows:

Financial powers and functions

The Gewog Tshogde shall:

- a) ~~Approve~~ **Review and approve** Gewog's annual budget based on ceilings for submission to the Ministry of Finance;

- b) Approve procurement in accordance with financial rules and regulations;
- c) ~~Re appropriate Gewog budget~~ **Carry out re-appropriations within the Gewog budget as may be required, as per financial rules and regulations; and**
- d) ~~Review accounts of all expenditures of Gewog and ratify in accordance with financial rules and regulations~~
- e) Approve the maintenance of development infrastructures, the expenses for which shall be met from the retained local taxes and other funds.

Provided that a detailed plan for the use of such funds, along with a work plan for the implementation of the Activities are prepared.

- **Review accounts of all expenditures of the Gewog and ratify in accordance with financial rules and regulations**

35. New Section inserted after the above section

- * **Gewog Tshogde may mobilize, spend, and invest money for the support of its functions in accordance with the Royal Government's policies and rules and regulations.**

36. Section 207 of Chapter 15 brought forward and amended as follows:

Gewog Tshogde shall appropriate and ensure collection of taxes specified in section 52 of this Act ~~not later than~~ January of every year.

37. Section 208 of Chapter 15 brought forward and

amended as follows:

Gewog Tshogde shall ~~be empowered to~~ **may** levy and vary rates of ~~duties, tolls and fees on utilities~~ **fees and charges on utilities in accordance with the existing law.**

38. Section 209 brought forward and amended as follows:

Gewog Tshogde shall, in exercise of its power under section 54, ensure that the ~~duties, tolls and fees and charges~~ are:

- a) Not excessive, oppressive, or confiscatory;
- b) Not contrary to law, public policy, national economic policy, or in restraint of trade; and
- c) Set at a level no higher than the cost of the most efficient method of providing the service.

39. Section 230 of Chapter 16 brought forward and amended as follows:

Powers and Functions of Thromde Tshogde

General Powers and functions

Thromde Tshogde shall:

- a) Formulate ~~development plans~~ **policies** and priorities in respect of the Dzongkhag Thromde;
- b) Preserve and promote cultural, architectural and aesthetic aspects of the Thromde;

- c) ~~Identify such~~ Provide civic and other services which are essential for the general well-being of the residents of a Dzongkhag Thromde;
 - d) Ensure that development and other Activities within ~~the boundaries~~ of a Thromde occur in a planned and harmonious manner;
 - e) Approve land use and development plans in accordance with the laws made by Parliament and its rules and regulations;
 - f) ~~Promote planned development and appropriate land use, control of squatter and illegal settlements and regulation of commercial Activities;~~
 - g) Protect and improve city's environment, in particular, control of noise pollution, regulation of parking, protection of parks, trees and plantations;
 - h) Protect its own property such as water supply sources, and may take such Actions it considers necessary. Where such properties are shared with other bodies, such Actions shall be taken jointly.
 - i) **Approve local area plan including land pooling schemes and any other relevant planning techniques; and**
 - j) **Authorize preparation of structure plans including land use plan and recommend for their approval by the Ministry responsible for urban development;**
40. **Section 234 of Chapter 16 brought forward and amended as follows:**

Regulatory powers and functions

Thromde Tshogde shall:

- a) Frame and adopt rules, guidelines for enabling the Thromde to carry out its functions, ~~relating to its affairs;~~

- b) Frame and enforce rules for protecting the health, safety and well being of the residents, preserving and promoting the quality of the Thromde environment;
- c) Regulate advertisements;
- d) Prepare urban development plans or amend an approved urban development plan to regulate and enforce land use and building Activity in the Dzongkhag Thromde;
- e) Formulate guidelines for entertainment and recreational Activities and venues;
- f) Enforce all laws and rules pertaining to the urban sector ~~and exercise such powers as may be conferred upon them.~~; and
- * **Regulate and enforce appropriate land uses including non-conforming land uses and vehicles repair workshops, and building Activity in the Thromde;** and
- g) Control squatter and illegal settlements, and regulate commercial Activities.

41. Section 232 of Chapter 16 brought forward and amended as follows:

Financial powers and functions

Thromde Tshogde shall:

- a) Review and approve the annual budget to be met from its resources and review and endorse budget proposals for submission to the Ministry of Finance for Royal Government funding where necessary;
- b) ~~Approve and~~ use its budget, grants, local fees, service charges, fines and ~~local~~ taxes;

- c) Approve purchase, lease, or otherwise acquire land and property or dispose it off in the interest of the Thromde in accordance with the policies of the Royal Government; and
- d) Raise, borrow, spend, and invest money for the support of its functions **in accordance with laws, Royal Government's policies and rules and regulations.**

42. **Section 233 of Chapter 16 brought and amended as follows:**

The Thromde Tshogde ~~shall impose~~ **may levy** the following ~~fees and charges~~ in a manner and at such rates as maybe approved by it **as per laws enforced.**

- ~~(a) Land-tax development and subdivision fee;~~
 - * **Property tax**
 - * **Property transfer tax**
 - * **Betterment tax**
 - * **Vacant land and underdevelopment tax**
- ~~(b) Land demarcation fee;~~
- ~~(c) Building permit fee;~~
- ~~(d) Land registration fee;~~
- ~~(e) Site plan fee;~~
- ~~(f) Vehicle parking fee;~~
- ~~(g) Market vendor fee;~~
- ~~(h) Advertisement fee;~~
- ~~(i) Water & sewerage charges (including pipe realignment & connection fees);~~
- ~~(j) Toll fee;~~

~~(k) Essential surcharge; and~~

~~(l) Other service charges.~~

43. New section inserted

Thromde Tshogde shall, in exercise of its power under section-....., ensure that the fees and charges are:

(a) Not excessive, oppressive, or confiscatory;

(b) Not contrary to law, public policy, national economic policy, or in restraint of trade; and

(c) Set at a level no higher than the cost of the most efficient method of providing the service.

44. New section inserted

Any other functions conferred by the Ministry responsible for urban development from time to time

45. Section 64

At the first sitting after any election, or when necessary to fill a vacancy, the Dzongkhag Tshogdu shall elect a Chairperson from among its members through secret ballot. A nomination shall be made from among the members, by any member and seconded accordingly. The ~~Secretary of Dzongkhag Tshogdu~~ **Dzongdag** shall preside over the election of the Chairperson of the Dzongkhag Tshogdu.

46. Section 65

The member who receives highest number of votes cast shall be elected as the Chairperson of the *Dzongkhag*

~~Tshogdu. In the event of two or more members securing equal number of highest votes, rounds of ballot shall be east till one is elected as the Chairperson.~~ **In the event two or more members secure equal number of highest votes, re-election between the candidates securing equal number of votes shall be conducted. If at the re-election, the two candidates secure equal number of votes, draw of lots shall be conducted in the presence of members.**

47. New Section after Section 65

A poll shall be held at an election of the Chairperson or Deputy Chairperson of the Dzongkhag Tshogdu, even if there is only one contesting candidate. The candidate shall be declared elected only if he/she secures in his/her favour a majority of the total valid votes cast.

48. Section 69 moved after Section 78.

49. New Section after Section 71

The Chairperson shall convene regular sessions of Local Government.

50. Section 188

~~Write-offs of losses~~

~~The Chairperson may in accordance with the provision of the Public Finance Act and up to the limits prescribed in the Financial Rules and regulations made there under, write off losses of public money or public assets due to Acts of nature.~~

51. Section 211 brought forward and amended as follows

- a) Act on behalf of the Gewog Tshogde and in its name;
- b) Be accountable to the Gewog Tshogde/Dzongkhag Tshogdu;
- c) Issue notifications based on the resolutions of Gewog Tshogde;
- d) ~~Oversee the affairs of the Gewog including the enforcement and implementation of the resolutions of the Gewog Tshogde;~~
- e) ~~Maintain law and order in the Gewog under the direction and supervision of the Dzongdag;~~
- f) submit periodic reports to the Dzongkhag Tshogdu/Dzongkhag Administration on the status of progress of work as well as the status of funds approved by the Gewog Tshogde for Activities contained in the plan;
- g) ~~Mediate and conciliate disputes of civil nature referred by the people in the Gewog;~~
- h) ~~Authorize payments for works, procurements and administrative claims in accordance with the financial rules and regulations;~~
- i) ~~Accord financial sanctions for Activities costing to Nu. 50,000 up to the limit set by the Ministry of Finance from time to time as per the procurement rules and regulations;~~

- ~~j) Report promptly to the Dzongdag on breach of public peace and/or law and order situation in the Gewog; and~~
- k) Perform any other functions as may be prescribed by law.

52. Section 212 brought forward and amended as

~~Write offs of Losses~~

~~The Chairperson may, in accordance with the provision of the Public Finance Act and up to the limits prescribed in the financial Rules and regulations made thereunder, write off losses of public money or public assets due to Acts of nature.~~

53. Section 235 brought forward and amended as

- ~~e. Appoint members of Committees, sub-committees and ad hoc committees of the Thromde Tshogde~~

New section after 235 (d)

Submit periodic reports to the Thromde Tshogde and to the Ministry responsible for urban development on the status of progress of work as well and the status of funds approved by the Thromde Tshogde for Activities contained in the plan.

54. Section 236 brought forward and amended as

~~Write offs of losses~~

~~The Thrompon may, in accordance with the provision of the Public Finance Act and up to the limits prescribed in~~

~~the Financial Rules and regulations made there under, write-off losses of public money or public assets due to Acts of nature.~~

55. Section 79

~~All members of Local Government shall not be bound or influenced by voters, interest groups, Parliamentary groups or political parties in the discharge of their duties.~~

56. Section 80

All members of Local Government shall serve the interests of their constituencies and the territory under their respective Local Government, bearing in mind national interests, goals and policies.

57. New sections after Section 88

- * **A member of the Local Government shall ensure public participation from his/her constituency in the formulation of five year and annual plans.**
- * **Member of Local Government shall Actively participate in the tendering, implementation and monitoring development Activities in their respective constituencies.**
- * **The Thrompon shall serve as the Thromde Thuemi in the Dzongkhag Tshogdu wherever there is a Dzongkhag Thromde Tshogde.**
- * **Dzongkhag Tshogdu Thuemi from Yenlag Thromde shall participate in the sessions of Gewog Tshogde as an observer.**

- **In case of bigger Yenlag Thromdes with administrative machinery, Dzongkhag Tshogdu Thuemi from Yenlag Thromde shall liaise with it.**

58. Section 82

~~Every member of Local Governments shall file copies of affidavits of declaration along with the nomination documents during the elections as provided for in the Election Act of Bhutan, with the Local Government administration within 7 days from the date on which he/she subscribes an oath of affirmation pursuant to section 96 of this Act.~~

- * **A member of the Local Government shall declare his/her income, asset and liability and that of his/her dependent in accordance with the provisions of the Anti Corruption Act of Bhutan, and also furnish a copy to the concerned Local Government Secretariat.**

59. Section 83

Members may file revised forms whenever any change occurs in the details of the affidavits **filed** under section 82 and also at the end of their tenure as members of the Local Government.

60. Section 85

~~Gewog Tshogde and Thromde Tshogde shall meet at least once every four months for regular sessions at~~
least thrice a year.

- 61. Sections 86 to 89 deleted and inserted in the later relevant headings.**
- 62. New Sections added after Section 91**
- * The Chairperson of the Local Government shall confirm the date of their sessions and ensure that their respective sessions do not coincide.**
 - * The Local Government Secretariat shall, upon confirmation of the date of the sessions under section of this Act, issue notification inviting proposals from members for inclusion in the agenda.**
 - * The members of the Local Government shall, for the purpose of section of this Act, call for zomdus in their respective constituencies.**

Special Sessions

- * The Chairperson of a Local Government shall convene a special session of the Local Government on receipt of a written request made by not less than three-fourths of the total number of members of the respective Local Government.**
- * The Chairperson of a Local Government shall convene a special session of the Local Government whenever he or she deems a matter to be of urgent nature.**
- * The Chairperson of a Local Government may convene a special session of the Local Government if a written request is made by the Dzongdag specifying the purpose, proposed date and reasons of calling the session.**

- * **The Chairperson of the concerned Local Government shall, upon receipt of request made under section..... of this Act, review the request and inform the concerned Dzongdag of his/her decision within two days of receiving the request.**
- * **The Chairperson of the Gewog Tshogde and Thromde Tshogde shall convene a special session if the Dzongkhag Tshogdu by a resolution directs it to convene a special session.**
- * ~~During the additional sitting,~~ **The Local Government shall consider only those matters for which it has a special session has been convened or those inseparably connected thereto.**

Notice for Sessions

- * **The Local Government Secretariat shall provide to all members of the Local Government reasonable notice period for a regular or special session. Such notice shall specify the place, date and time of the session and the business to be transacted thereat provided that in case of a special session such notice shall include any motion or proposition mentioned in the written request made for such meeting.**

First session after election

- * **The date of the first session of Dzongkhag Tshogdu after the first Constitution or re-Constitution shall be fixed by the Dzongdag and the dates for the sessions of Gewog Tshogde and Thromde Tshogde shall be decided by their respective Chairpersons.**

63. Section 92

~~A list of members who have submitted their certificate of election shall be presented to the head of administration any working day before the day on which the Local Governments convene for the first time after an election.~~

The members of Local Government shall submit their certificate of election to the Local Government administration on any working day prior to the day on which the Local Government convenes for the first time after an election.

64. Section 93

A certificate submitted under section 92 of this Act shall be inspected by the ~~head of administration of the Local Government~~ **Dzongdag** to determine its authenticity and validity.

65. Section 94

A certificate referred to under section 92 of this Act, presented on a later date shall be inspected immediately and, thereupon such member shall be administered oath or affirmation **of Office** as prescribed under ~~this Act~~ **Third Schedule of the Constitution of Bhutan.**

66. Section 95

Changes in the composition of a Local Government shall be entered in the list to be maintained by ~~the head of administration of~~ the Local Government.

67. Section 96

~~Members of Local Governments shall take an Oath of Office, as provided in the Third Schedule of the Constitution, before assuming their responsibilities.~~

The Chairperson of the Local Government shall be administered Oath or Affirmation of Office by the Drangpon in the presence of the Dzongdag as provided for in the Third Schedule of the Constitution, prior to assuming their responsibilities.

68. Sections 97 to 99 inserted under later relevant headings.

69. Section 105

~~Whenever necessary, the Chairperson may invite any government official or person as an observer during the sessions of the Local Government.~~

70. Section 110

In case of any change in the day, time and programme of the sitting of a Local Government, ~~the head of administration~~ **Local Government Secretariat** shall serve notice to this effect to the members on the preceding day.

71. Section 111

Only members of the **Local Government** shall have the right to vote.

72. Section 112

~~A member is entitled to one vote per proposal and the right to vote shall not be exercised by proxy.~~

The right to vote shall not be exercised by proxy and a member including the Chairperson is entitled to one vote per proposal.

73. Urgent Business

- **If the business proposed to be brought forward is ruled by the Chairperson to be of urgent nature, then such business shall be transacted at a regular or special session of the Local Government even though due notice of the business has not been given to its members.**

74. Decisions

All questions shall, unless otherwise specifically provided, be decided by a majority of votes of the members present and voting.

75. Section 120

~~The head of administration to the Local Government Secretariat shall maintain records of proceedings at each session.~~

76. Section 121

~~The head of administration shall submit the report of resolutions to the Local Government for endorsement, wherein a member may bring to the notice of the Local Government any patent error, which shall stand~~

~~corrected but such resolutions once adopted shall not be permitted for deliberation.~~

77. Modification or cancellation of resolution

- **No resolution of a Local Government shall be modified or cancelled within six months of its adoption, except by a resolution passed by not less than two-third of the total number of members of that Local Government.**

78. Section 122

~~The head of administration shall dispatch the resolutions, within one week, to all members as well as to other officials, ministries and departments concerned for necessary Action. The officials, ministries and departments concerned shall report back on the Action taken within one month from the receipt of the resolutions.~~

The Local Government Secretariat shall dispatch the final resolution within one week of its endorsement to all members of the Local Government, concerned Members of Parliament, Department of Local Governance, the concerned Dzongkhag Administration, Dungkhag Administration, Thromde Administration, Gewog Administration and/or the concerned national agencies.

79. New Sections after Section 122

- **The Dzongkhag, Dungkhag, Thromde, and Gewog administrations and national agencies shall, within sixty days of receipt of resolution, submit a written**

report to the concerned local Government on the status of the implementation of the resolution.

- For the purpose of section-....., the Department of Local Governance, Ministry of Home and Cultural Affairs shall follow up and coordinate with the concerned Royal Government agencies where necessary.

80. Section 123

~~The Chairperson shall cause the votes of each member to be recorded and open to disclosure, except for votes cast through secret ballot~~

81. New sections after 125

- * Local Government shall announce the dates of their sessions through public media and other means.
- Local Government shall announce the call for tenders, award of contracts, value of contracts, and projects under implementation through public media.

82. Section 126

All sessions of Local Government shall be open to ~~members of their respective constituencies as observers~~ **public to participate as audience** except for closed door sessions.

83. Section 127

~~Observers under section 126 shall enjoy the right to speak during the last session of a calendar year as per the prescribed rules.~~

84. Section 129

Entire section deleted and inserted under miscellaneous chapter.

85. Section 130

All Local Government shall have public notice boards which shall be visibly and prominently displayed at the entrance of the ~~office of the~~ Local Government **Secretariat**. Agenda for the next session, annual budget, annual work plan and call for tenders and other relevant information must be displayed on public notice boards.

86. Heading Section 131

~~Appraisal of the People~~ **Dissemination of Information**

87. Title of Chapter 10

Privileges, Immunities and ~~Salaries~~ Remuneration

88. New Section after Section 133

A member shall have the right to be provided with information by the Royal Government and to inspect documents on any matter of relevance to the exercise of his/her mandates as a member of the Local Government.

89. Section 134

A member shall, subject to the provisions of the Constitution, ~~by virtue of their office~~ **shall** have the

right to speak freely in the proceedings of the Local Government or any Committees thereof.

90. Section 136

~~In addition to section 135 of this Act, No member of the Local Government shall be prosecuted or arrested for an offence without giving prior notice to the Chairperson when the Local Government is in session. without first informing the Chairperson.~~

91. New Section after section 140

- **No Acts and proceedings in which an elected candidate has participated as a member of the Local Government before his/her election is declared void, shall be invalidated by reason of that order, nor shall he/she be subjected to any liability or penalty on the ground of such participation.**

92. Section 142 (a), (d), (g), (i)

- a. ~~Reflection~~ **Comment** on the character of the Chairperson in the discharge of his/her duty;
- d) Intimidation of members to influence them in their conduct, **vote, opinion or judgment;**
- g) Deliberately giving false or misleading information to the Local Government **in the execution of their official duties;**
- i) Misconduct ~~in a~~ **creating disturbance or disruption in the course of the proceedings of the Local Government;**

93. New Section after Section 143

- **A breach or abuse of privilege or immunity provided for in this Act amounts to contempt of Local Government, and shall be dealt in accordance with section of this Act.**

94. Section 144

~~A member is entitled to receive such remuneration as may be determined by Parliament on the recommendation of the Pay Commission during the whole term of his/her office and/or such daily allowances for each day during sittings of the Local Government or while attending any business connected with his/her duties as a member.~~

- * **A member of the Local Government shall be entitled to receive remunerations as may be determined by the Royal Government as per procedures in the Constitution.**

95. New Section after section 144

- * **A member of the Local Government shall be entitled for daily allowances in accordance with the existing rules of the Royal Government while attending the session or any other official functions at the Dzongkhag headquarter.**

A member of the Local Government is entitled to receive sitting fees for each day during the sittings of the Local Government.

96. Section 145

The provision regarding daily allowances in this respect shall not apply when sessions of the Local Government

are adjourned due to disorder caused by its members affecting the conduct of its business. **However, the members shall be paid daily allowances in such cases as per the established norms of the Royal Government.**

97. Section 146

A deduction of the daily allowances **and sitting fees** of a member of Local Government shall be made for every day on which the member does not attend a sitting of Local Government for any reason, ~~including suspension under this Act, except as provided under section 145.~~ **without the prior approval of the Chairperson or when a member is suspended under this Act.**

Provided that a member shall be eligible to receive daily allowances if after having signed the Roll of Members, he/she is unable to attend the sitting by reason of being ill and the leave of absence from the Local Government has been obtained.

98. Section 149

A member of the Local Government shall be guided by the highest standards of **ethical values and** moral principles; be patriotic and owe allegiance and loyalty to the Tsa Wa Sum.

99. Section 150

A member of the Local Government shall not indulge in any Activity that adversely **affects the security, sovereignty and integrity of the nation** ~~the business of~~

~~a Local Government and shall be responsible to the Local Government for his/her Actions.~~

100. New Section after section 150

A member of the Local Government shall be duty bound to uphold the laws and to Act on all occasions in accordance with the public trust placed in them.

101. New sections after Section 153

- * A member of the Local Government shall conduct in a courteous and respectful manner, and refrain from using profane, offensive, vulgar and derogative expressions including the perpetration of physical force that is likely to disrupt or disturb the course of the proceedings.**
- * A member of the Local Government shall, in the conduct of duties, resolve any conflict between their personal interest and the public interest in favour of public interest.**
- * A member of the Local Government shall when reaching decisions have regard to any relevant advice provided to them by the Administration and Finance Division of the Local Government in pursuance of their duties.**
- * A member of the Local Government shall hand over any document, monies or other properties belonging to the Local Government to his/her successor in office or other prescribed authority within thirty days of vacation of office.**

102. Section 154 (d)

~~Hold office of profit or undertake private employment or perform any function, which is liable to impair public confidence;~~

Hold office of profit as specified in the Electoral Laws;

103. New sub section in Section 154

- * **Violate the provisions of the Constitution;**
- * **Accept bribe, including any fee, gift, and compensation or reward in the discharge of his/her duty;**
- * **Act or refuse to act on grounds as may be specified in this Act or any law in force.**

104. Section 156

~~No Member shall, during a delegation to foreign countries, give press statements regarding the visit. Such briefings to the press shall done by the leader of the delegation or by the spokesperson appointed for the purpose.~~

Only the spokesperson or the leader of the delegation so appointed shall give press statements and briefings during Local Government delegations to foreign countries.

107. New Sections after 156

- * **A member of the Local Government shall maintain confidentiality in cases where decision, document and deliberation should not be disclosed in the public interest.**

Reporting on compliance of Code of Conduct

- * **A member of the Local Government or any person**

shall submit a written report to the Disciplinary Committee, as soon as it is practicable, if he/she reasonably believes that a member has failed to comply with the Code of Conduct.

Breach of Code of Conduct

- * **Breach of the Code of Conduct by a member of the Local Government shall be dealt with in accordance with this Act.**

106. Section 158

Committees shall be established by Local Government for purpose of specific functions **in accordance with the provisions of this Act.**

107. Section 159

~~Members of a Committee shall be appointed under the authority of the Chairperson upon having been nominated and selected by members of the Local Government.~~

Members of a Committee shall be elected from amongst the members of the Local Government

108. Section 160

~~A member of the Committee shall be directly appointed as the Chairperson of the Committee by the Chairperson. .~~

The Chairperson of a Committee shall be elected from amongst members of the Committee.

109. New sections after Section 166

- * The Ad hoc Committee shall stand dissolved upon presenting its opinion and recommendation to the Local Government.**
- * Each Committee may have co-opted members from amongst officials from any national agency, ministry, department and regional office or the voters of the Thromde/Gewog on the basis of relevancy and need to the committee.**
- * The Co-opted members shall be appointed under the authority of the Chairperson based on the recommendation of the Committee.**
- * The privileges and liabilities of co-opted members shall be same as the members of the Local Government serving on the Committee.**
- * The Co-opted members shall only serve for a period so determined by the concerned Local Government.**

110. Section 167 to 171 deleted and inserted under the new chapter Local Government Secretariat.

111. Section 172

All Activities undertaken by different sectors of the government within the jurisdiction of a Local Government, unless otherwise specified shall be routed through and coordinated by Local Government Secretariat. The concerned sectors shall provide technical and financial support for implementation of the Activities and carry out regular monitoring and evaluation of the Activities

in accordance with the prescribed monitoring and evaluation system of the government. ~~supervised and monitored by the head of that Local Government and he/she shall submit timely reports to the Dzongkhag Tshogdu~~

112. New Section after 172

The Parliamentarians shall have access to the status on implementation of the developmental Activities in their respective Constituencies.

113. Section 173

~~The functioning of the Gewog Administration shall be monitored by the Dzongkhag Administration, which shall submit periodic report to Dzongkhag Tshogdu.~~

Officials of various sectors and agencies of the Government serving within the jurisdiction of a Local Government shall be administratively accountable to the head of the Local Government and technically to the concerned sector or agency.

114. Section 174

~~The Gewog Administration shall submit reports to the Dzongkhag Administration as may be determined by law. The Dzongkhag Administration shall likewise submit reports to the Royal Government.~~

The Gup and Thrompon shall submit timely report to Dzongkhag Tshogdu and the Dzongkhag Tshogdu in turn shall submit to the Department of Local

Government and concerned Ministries and agencies through the Dzongkhag Administration.

115. Section 175

The Department of Local Governance under the Ministry of Home and Cultural Affairs shall be responsible for coordination pertaining to inter-local Government, between local Government and Central Government. ~~and facilitation of inter Dzongkhag and Centre-Dzongkhag relations.~~

116. Section 176

The Ministry of Home and Cultural Affairs in **consultation with concerned agencies** shall be empowered to prescribe rules and regulations to support the implementation of this Act.

117. Section 177

The Ministry of Home and Cultural Affairs shall **along with other relevant organizations, coordinate development of capacity and systems of Local Government.** ~~be responsible for capacity development of Local Governments. It shall further coordinate law and order issues and situations.~~

118. Section 178

~~The~~ Ministries shall be responsible for formulation of sectoral policies and plans that cut across Local Government including monitoring and evaluation of sectoral policies, plans and programs in accordance with

guidelines of the Gross National Happiness Commission.

119. New sections after section 178

- * **The Ministry responsible for urban development shall supervise and monitor Activities of Dzongkhag Thromdes.**
- * **Dzongkhag Thromdes shall submit a copy of half-yearly and annual reports along with any other report to the Ministry responsible for urban development and other relevant agencies.**
- * **The Ministry responsible for urban development shall formulate national urban policies, guidelines, and standards, approve structure plans including land use plan of the Thromdes and carry out planning audits in the Thromdes.**

Consultation by national agencies and offices

- * **All national agencies shall conduct periodic consultations with a Local Government before any project or program is implemented in the jurisdiction of such Local Government.**
- * **All national agencies with project implementation functions shall coordinate with the Dzongkhag Administration and with the Local Government concerned in the discharge of their functions.**
- * **All national agencies shall involve Local Government both in the planning and implementation of national projects.**

120. New Chapter inserted as “Financial Autonomy”

Sections 8 to 24 of the draft have been made as a separate chapter as follows:

Taxes and Levies Sources of Funds

- Local Government shall be entitled to levy, collect and appropriate taxes, fees, and fines in accordance with such procedure and subject to limitations as may be provided for by law.

Tax Exemption

Payment of taxes by Local Government shall be ~~exempted of taxes on their revenue and income~~ **be in accordance with the taxation laws.**

Grants

- * Local Government shall be allocated a proportion of the national revenue to ensure self-reliance and sustenance. To this end Local Government shall receive annual grants from the Royal Government for undertaking plan programmes, Activities, and managing and maintaining existing service infrastructures and delivery of services.

Borrowing

Local Government shall, subject to such limitations as may be provided for by law, be entitled to own assets and incur liabilities by borrowing on their own account.

Fines to be credited to Local governments funds

All fines imposed under this Act or under any rule, regulations or bye-laws shall be credited to Local governments' funds.

Use of Funds (Section 15, 16 and 17 of NC)

Local Government shall have the power to spend funds generated **from their local taxes, fees and fines, and from funds allocated by the Royal Government:**

- ~~a) the total operating funds that Local Governments may raise in any fiscal year by levying taxes as provided for in Section 8 of this Act, and imposition of fines as provided for in Section 14 of this Act;~~
- ~~b) grants received from the government;~~
- ~~c) resources allocated by the government as provided for under sections 10 and 11 of this Act; and~~
- ~~d) funds that the government may allocate for emergency as provided for under section 24 of this Act.~~

Local Government shall carry out their financial operations and transactions in an efficient, transparent and accountable manner to give effect to their identified priorities and desired outcomes.

Local Government shall ensure that funds are spent in accordance with the provisions of Public Finance Act and rules and regulations made thereunder.

Management of Local Government Assets and Funds

Local Government shall manage their revenues, expenses, assets and liabilities prudently and in a manner that promotes the immediate and future interests of the community.

Local Government shall manage its assets and funds in accordance with provisions of the Public Finance Act and rules and regulations made thereunder.

Every official of Local Government whose duties permit or require the possession or custody of local funds shall be accountable and responsible for the said funds and safekeeping thereof in conformity with the provisions of law.

Accounts

~~Taxes and fees collected by Local Governments shall be deposited in Local Government's account, which are maintained and operated by the Chairperson and head of administration as joint signatories.~~

~~All money received as grants and borrowings shall be deposited in the accounts of Local Governments.~~

Section 21 and 22 of NC rephrased as below:

- * **All monies apart from those received from the Royal Government shall be deposited in a separate account of the Local Government. Monies received from the Royal Government shall be operated through the Government Letter of Credit system.**

New Sections

- * **Local Governments' account shall be maintained and operated in accordance with the Royal Government's financial rules and regulations.**
- * **Local Government shall prepare and submit monthly**

accounts simultaneously to the Dzongkhag Administrations and Department of Public Accounts. In the case of Thromde Tshogde, such accounts shall be submitted directly to the Department of Public Accounts.

Prohibitions

Local Government shall be prohibited from:

- a) Exceeding budget appropriation limits;
- b) Allowing a bank account to be in overdraft; and
- c) Such other Acts as may be specified in the Public Finance Act. Funds for Emergency Situations

Local Government shall, when facing extraordinary and emergency situations, seek assistance from the government.

- 121. A new Chapter “Local Government Secretariat” has been added after the Chapter” Financial Autonomy”. The Hon’ble Members resolved to insert the following new sections.**

Dzongkhag Tshogdu Secretariat

- * The Dzongkhag Tshogdu shall be supported by a Tshogdrung, who shall be a civil servant.**

Gewog Tshogde Secretariat

- * The Gewog Tshogde shall be supported by the Gewog Administrative Officer, who shall be a civil servant.**
- * Gewog Administrative Officer shall Act as the**

secretary to the Gewog Tshogde.

Thromde Tshogde Secretariat

- * **Thromde Tshogde shall be supported by the Executive Secretary, who shall be a civil servant.**
- * **The Executive Secretary shall Act as the secretary to the Thromde Tshogde**

Functions of Secretariats

- * **The above secretariats shall provide secretarial support to the Local Government, and provide advice to members of the Local Government and its Committee.**
- * **The above secretariats shall, as soon as possible, provide a copy of the agenda to members of the Local Government, concerned members of Parliament, and other relevant agencies.**
- * **The Dzongdag, Executive Secretary and Gewog Administrative Officer shall maintain systems to enable effective planning and accurate reporting of financial and service performance of the Local Government.**
- * **The Dzongdag, Executive Secretary and Gewog Administrative Officer shall ensure the effective and efficient management of the Activities of the Local Government.**

122. Section 167 to 171 of the draft Bill has been removed and inserted under the new chapter and amended as follows:

Safekeeping of Records

The ~~head of administration~~ **Local Government Secretariat** shall be responsible for writing and circulation of minutes and safe keeping of all records.

The ~~head of administration~~ **Local Government Secretariat** shall maintain a register called the Register of Declaration of Assets and Liabilities of Members based on information supplied by members pursuant to section 82 of this Act. ~~and the Roll of Members~~

~~The administration of the~~ **Local Government Secretariat** shall keep proper record of the **plan proposals and date of receipt of such proposals from the members.** ~~for deliberations and their date of receipt.~~

The ~~head of administration~~ **Local Government Secretariat** shall compile and submit the agenda to the Local Government Chairperson for approval and circulation to all members and agencies concerned.

The ~~head of administration~~ **Local Government Secretariat** shall perform such other functions as may be determined by this Act or any other rules made under this Act.

123. New Sections after Safekeeping of records.

The Local Government Secretariat shall keep records of all reports and resolutions passed by the Local Government and make it accessible for public inspection.

Other Functions

The Local Government Secretariat including Dzongkhag Administration shall support the Disaster Management Committee during threatening disaster situation or declaration of disaster.

- 124. New Chapter on Local Government Administration has been incorporated after the Chapter on Local Government Secretariat. Hon'ble Members resolved to insert the following sections as follows:**

Local Government Administration

- **There shall be Local Government Administrations which shall comprise the Dzongkhag Administration, Dungkhag Administration where necessary, Gewog Administration and Thromde Administration.**

- 125. Section 189 of the draft Bill has been inserted under the new section along with an additional new section.**

There shall be a Dzongkhag Administration which shall be staffed by civil servants.

- * **The Dzongkhag Administration shall function under the Dzongdag who shall be the chief executive in the Dzongkhag.**

- 126. Section 190 of the draft Bill has been inserted after the above new section. Hon'ble Members resolved to amend section 190 (b) and also added a new clauses after 190(i) as follows:**

Be responsible for the implementation of social and economic development policies, plans and programs of

the Dzongkhag as **approved by the Government** resolved by the Dzongkhag Tshogdu;

New Clauses

- * **Coordinate between Dzongkhag, national agencies, Dzongkhag Tshogdu, Gewog Tshogde, and Thromde Tshogde;**
 - * **Direct, supervise and monitor all Activities of the Dungkhag and Gewog administrations;**
 - * **Provide technical support to Gewog administrations;**
127. **New Sections after power and functions of Dzongkhag administration have been added as follows:**

Allotment of Land to Local Government

- * **Local Government may apply to Dzongkhag Administration for allotment of Government land or Government reserved forests land in accordance with prevailing laws. In the case of Thromdes, all land falling within their jurisdiction shall be registered in the name of concerned Thromdes.**
- * **The Royal Government shall, with the concurrence of the concerned Local Government, be competent to allot Government land or Government reserved forests land to such Local Government either conditionally or otherwise.**
- * **Notwithstanding above, no lease, sale or other transfer of any such immovable property by the Local Government shall be valid without the prior sanction of the Royal Government.**

128. Section 191 of the draft Bill on Appointment of Dzongdag has been spilt into three sections and also two new sections have been added.

The Dzongdag shall be appointed by His Majesty the King on the recommendation of the Prime Minister, who shall obtain nominations from the Royal Civil Service Commission.

- * **The Dzongdag shall be the representative of the Government in Dzongkhag.**
- * **The Dzongdag shall be accountable to the Dzongkhag Tshogdu in respect of implementing the decisions taken by Dzongkhag Tshogdu.**

New Section

- * **Dzongdag shall be assisted by the Dzongrab.**

New Section

- **Any intra-ministerial transfer of the Dzongdags shall be done by the Ministry of Home and Culture Affairs.**

129. Section 192 which has been added after appointment of Dzongdag has been amend as follows:

The Dzongdag shall, consistent with the principle of **basic policy** of local autonomy, assist the Chairpersons and **local government** of ~~Dzongkhag Tshogdu~~ in carrying out his or her functions under this Act.

130. New section have been added after section 192 of the draft Bill as follows:

The Dzongdag shall have administrative and financial control over all civil servants within the administrative jurisdiction of the Dzongkhag.

131. Section 194 of the draft Bill has been rephrased and amended as follows:

The Dzongdag shall:

- a) Be responsible for maintaining law and order in the Dzongkhag;
- b) **Be responsible for reporting to the Royal Government any serious shortcomings observed in the functioning of the Dzongkhag Tshogdu, Gewog Tshogde and Thromde Tshogde;**
- c) **Preserve, promote and maintain Driglam Namzha in the Dzongkhag;**
- d) **Maintain peace, harmony and unity within the Dzongkhag;**
- e) **Be responsible for over all implementation of Dzongkhags annual plans and programmes within the approved budget allocation; and**
- f) **Submit annual report to the Government on the status of finance, achievement of plans and programmes including any short comings.**

132. Section 195 of the draft Bill has been amended as follows:

The Dzongdag may, **suo-moto or when referred by the Government, report on and** make recommendations to the government on matters relating to the efficient and effective functioning of the Local Government.

133. Section 196 of the draft Bill has been amended as follows:

The Dzongdag shall ~~attend~~ **participate in** the sessions of the Dzongkhag Tshogdu and **Thromde Tshogde** as ~~an observer as and when the Chairperson extends an invitation.~~

134. New sections after 198 of the draft Bill has been added as follows:

- * **The Dzongdag shall organize relief measures during natural disasters and emergencies in coordination with the department of Disaster Management.**
- * **Dzongdag may call for record of any Local Government meetings or extrAct of any statement of accounts or documents from any Local Government.**
- **The Dzongdag shall be accountable to the Ministry of Home and Cultural Affairs on matters which are not within the jurisdiction of Dzongkhag Tshogdu.**

135. New sections on Dungkhag Administration have been added after the responsibilities of the Dzongdag as follows:

Dungkhag Administration

- * **Dungpa shall be the head of the Dungkhag Administration.**
- * **He shall be accountable to Dzongdag.**
- **Dungkhag Administration shall be supported by the civil servants.**

136. Section 213 of the draft Bill has been added after Dungkhaq administration with amendment as follows:

There shall be a Gewog Administration which shall be staffed by civil servants **and other employees.**

137. New section after the above section has been added as follows:

- **Gup shall be the Chief Executive of the Gewog.**

138. Section 213 of the draft has been split into two part and new subsection (a) and (d) has been added.

The Gup shall:

- a) **Chair the Gewog tender committee;**
- d) **Implement plan Activities without delay in consultation with the public;**

139. Section 214 (a) and (b) of the draft Bill has been amended along with a new sub section as follows:

Under the general supervision of the Gup, the Gewog Administration shall:

- * **Assist Gewog Tshogde in planning five year and annual plans;**

- a) **Implement the resolutions of the Gewog Tshogde;**
- b) **Implement the annual plans and programmes approved by the Gewog Tshogde and the Government.**

140. Section 215 of the draft has been amended as follows:

A Gewog Administrative Officer as a civil servant shall be appointed in accordance with the Civil

Service Act of Bhutan, by the Royal Civil Service Commission.

- 141. Section 216 of the draft has been amended as follows:**
A Gewog Administrative Officer shall be the head of the Gewog the administration of the gewog.
- 142. Section 218 of the draft Bill has been deleted since it is already covered under Gewog Tshogde Secretariat.**
- 143. Section 219 (b) to (h) has been deleted from the draft Bill to be inserted under the rules of procedure. Section 219 (a) has been amended and two new sub clauses have been added as follows:**
A Gewog Administrative Officer shall;
- a) Be responsible for **personnel administration of employees of all government agencies within the jurisdiction of the Gewog unless specified otherwise;**
~~the smooth functioning of the Gewog Administration~~
 - **Provide secretarial support to the Gewog Tshogde;**
 - **Be responsible for smooth functioning of the Gewog Administration in compliance with the government administrative and financial rules, regulations and procedures.**
- 144. Section 230 of the draft Bill has been merged with section 237 of the draft Bill and has been amended. New sub sections have also been added to it as follows:**

Powers and functions of Thromde Administration

- * **There shall be Thromde Administration for Dzongkhag a Thromde staffed by civil servants, other employees and agencies.**

The Thromde Administration shall:

- a) Formulate ~~development~~ **local area** plans and priorities in respect of the Dzongkhag Thromde **and submit to Thromde Tshogde for approval;**
- b) Preserve and promote cultural, architectural and aesthetic aspects of the Dzongkhag Thromde;
- c) Identify such civic and other services those are essential for the general well-being of the residents of a Dzongkhag Thromde;
- d) Ensure that the development and other Activities within the boundaries of a Thromde occur in a planned and harmonious manner;
- e) ~~Approve land use and development plans in accordance with the laws made by Parliament and its rules and regulations;~~(To be included in the rules)
- f) Promote planned development and appropriate land use, control of squatter and illegal settlements and regulation of commercial Activities;
- g) Protect and improve the city's environment, and in particular, control noise pollution, regulate parking, protect parks, trees and plantations; and
- h) Protect its own property such as water supply sources, and may take such Actions it considers necessary.

Where such properties are shared with other bodies, such Actions shall be taken jointly.

~~The Thromde Administration shall carry out the following functions:~~

- ~~a) Enforce provisions of this Act and any rule and regulation made thereunder;~~
- ~~b) Execute, supervise and manage physical, socio-economic plans and programs approved by Thromde Tshogde;~~
- ~~e) Exercise all enforcement methods prescribed under this Act or any other Act or rules such as fines, disconnection of utilities, stop work orders and demolition orders;~~
- ~~d) Execute the provisions of such civil and other essential services for the general wellbeing of the residents of the Dzongkhag Thromde in a sustainable manner;~~
- ~~e) Demolish, after issuing appropriate notices under the relevant Act and rules, any building work or construction or such other Activity that is in contravention of the building permit or such other permit or a contravention of that Act;~~
- f) Prepare an annual budget for its operations and submit it to the Thrompon for approval of the Thromde Tshogde;
- g) Levy, collect and appropriate taxes, duties, tolls, and fees in accordance with the procedures and subject to such limitations as may be provided by any law made by Parliament;

- h) Manage affairs of the Dzongkhag Thromde under the direction of the Thrompon in an efficient and equitable manner, benefiting all residents of the Thromde;
- i) Manage its finances prudently in a manner which is consistent with sound financial practices;
- j) Undertake any Activity consistent with relevant laws and policies of the government, which may preserve and promote the environment within the limits of Dzongkhag Thromde;
- k) Provide services such as water supply, sewerage services, solid waste management, drains, animal control, plantation, and other services including the disposal of unclaimed bodies;
- l) ~~Ensure provision of customer/consumer friendly and quality urban services;~~
- m) Ensure that urban planning and development are carried out in a manner which is consistent with the national urban development policies;
- n) Interact on matters concerning the development and overall governance of the Dzongkhag Thromde with the relevant agencies;
- o) ~~Report and be answerable to the Thromde Tshogde for the implementation of the resolutions of the Thromde Tshogde;~~
- p) ~~Organize or manage chemical or bacteriological laboratories for the examination or analysis of water, food and drugs for the detection of diseases or research connected with the public health or medical relief; ;~~
- q) ~~Provide housing accommodation for the inhabitants of any area or for any class of inhabitants; and;~~

- r) Issue and renew occupancy certificate at periodic intervals to ensure compliance to safety and other regulations.

New clauses

- * **Carry out structure and land use planning within the Thromde and recommend ~~their~~ for approval by the Ministry responsible for urban development;**
- * **Carry out land pooling schemes in Thromdes and any other appropriate planning techniques approved by Thromde Tshogde;**
- * **Notwithstanding anything contained in the Land Act, 2007 or any law in force, approve all transactions and registration related to land and properties within the jurisdiction of Thromde and effect registration in the Thromde Property Register maintained by the respective Thromdes;**
- * **Submit records on all transactions and registrations relating to land to the relevant agency for updating such information in the Chhazhag Sathram;**
- * **Approve building drawings in accordance with codes, standards, rules, and laws;**
- * **Plan human resource development for Thromde including recruitment of personnel for specific projects on contract basis;**
- * **Administer regulations related to minimum plot size within the Thromde areas. Notwithstanding the provisions of the Land Act minimum plot size in Thromde in general shall be 13 decimals whereas in**

the planned areas the minimum plot size shall be as per the size specified in the approved local area plan;

- 145. Section 238 to 240 which talk about Executive Secretary has been inserted after Powers and Functions of Thromde Administration. The sections have been amended and new sub sections have been added as follows:**

Appointment of Executive Secretary

The Executive Secretary as a civil servant shall be appointed in accordance with the Civil Service Act of Bhutan. ~~Royal Civil Service Commission shall appoint a civil servant as Executive Secretary for Dzongkhag Thromde.~~

Roles and Responsibilities of the Executive Secretary of Thromde Administration:

The Executive Secretary shall ~~be the head of the Dzongkhag Thromde~~ the Administration of Thromde.

The Executive Secretary shall be accountable to the Thrompon.

- * Under the general supervision of the Thrompon, the Executive Secretary shall:**
 - a) Establish and maintain appropriate organizational structure for the Thromde administration;**
 - b) Ensure that the decisions of the Thromde Tshogde are implemented on time;**
 - c) Carry out day to day management of Thromde operations;**

- d) **Develop, adopt and disseminate a code of conduct for Thromde staff; and**
- e) **Any other functions prescribed by the Thromde Tshogde or other laws.**

146. New chapter on Offences have been inserted after the chapter on Local Government Administration as follows;

Offence for acting as a member after ceasing to be a member

- * **A person who acts as a member of the Local Government after ceasing to hold office under this Act or the rules and regulations made thereunder, shall be guilty of the offence of impersonation of an official.**

Offence for failing to surrender Local Government properties

- * **A member of the Local Government who fails to hand over any document, monies or other properties belonging to the Local Government to his/her successor in office or other prescribed authority within thirty days of vacation of office shall be guilty of an offence of unauthorized use of properties.**

Offence for failure to declare conflict of interest

- * **A member who votes or fails to disclose his/her interest in contravention to section of this Act shall be fined up to a maximum of ninety days' national daily minimum wage rate.**

Offence for acquiring an interest in a contract

- * **If any member or personnel of the Local Government knowingly acquires for himself/herself, directly or indirectly, any share or interest in any contract work awarded by Local Government shall be guilty of an offence of official misconduct.**

Offence for non payment of taxes

- * **Non-payment of taxes to Local Government under this Act by any member shall be guilty of an offence of tax evasion.**

Offence of Obstruction of Local Government functionaries

- * **A person obstructing the members and officials of the Local Government or any person empowered by the Local Government in the discharge of his/her duty under the provisions of this Act shall be guilty of an offence of obstruction of lawful authority.**

Penalty for removal or obliteration of notice

- * **A member, who without authority in that behalf, removes, destroys, defaces or otherwise obliterates any notice exhibited or any sign or mark erected by or under the orders of a Local Government shall be fined up to a maximum of ninety days' national daily minimum wage rate .**

Offence of influencing a member

- * **Any member or person who receives or offers any gift or promises gratification with the object of**

influencing the vote, opinion, judgment or Action of a member shall be guilty of an offence of bribery.

Offence for giving false information

- * A person who is required by this Act or by any notice or other proceedings issued thereunder to furnish any information fails to furnish such information or knowingly furnishes false information shall be guilty of an offence of reporting false information.**

Offence for damage to public property

- * Any damage to a property of the Local Government caused by any Act, neglect or default on account of any member shall be guilty of an offence of malicious mischief.**

Penalty for breach of the Code of Conduct

- * A member guilty of breach of Code of Conduct or breach of privilege shall, notwithstanding any other penalty that may be prescribed under this Act or any law in force, be liable to any one or more of the following penalties:**
 - a) A written warning;**
 - b) An order to apologize to the Local Government or any person, in the manner determined by it;**
 - c) Suspension without any benefits for a specified period;**
 - d) A fine not exceeding the equivalent of the member's one month's salary and allowances; and/or**

e) Removal from membership.

Provided that the matters under subsection (e) of this section shall be dealt in accordance with section..... of this Act.

Jurisdiction of Court

- * The Dzongkhag Court of the concerned Dzongkhag shall, unless otherwise specifically provided, be the authority to try a petition under this Act in accordance with Civil and Criminal Procedure Code of Bhutan.**

Offences under the Penal Code of Bhutan

- * Any Act or omission which is an offence under the Penal Code of Bhutan shall be deemed to be an offence under this Act and be punishable with the same penalty as prescribed under the Penal Code.**

Offence not specified in this Act

- * The Local Government shall, where a particular offence is not covered by this Act or any rules and regulations made thereunder, have the power to levy reasonable penalty, not exceeding a fine of ninety days' national daily minimum wage rate.**

147. Section 241 of the draft as been amended as follows:

The Royal Audit Authority shall **audit** ~~be the auditor~~ for the Local Government in accordance with the Constitution and the Audit Act of Bhutan.

148. Section 242 has been merged with section 129 of the draft Bill and has been amended as follows:

~~242. The Chairpersons of Local Governments shall submit an annual report to the government not later~~

~~than three months after the closing of each financial year after being tabled before the Local Governments. The report shall contain amongst others:~~

- ~~a) the annual financial statements;~~
- ~~b) a statement of Local Governments' objectives and policies;~~
- ~~e) an assessment of the extent to which objectives and policies have been achieved during the year;~~
- ~~d) an evaluation of the achievement of performance against planned Activities and standards during the year;~~
- ~~e) a summary of operational results for the year;~~
- ~~f) an inventory of assets; (g) issues and constraints; and~~
- ~~g) such other information or reports as may be required to be submitted to the Royal Government.~~

* **Chairpersons of Local Government shall publish an submit annual report to the sessions of Local Government** which shall contain, among others, the following:

New Subsection

* **Implementation status of planned Activities;**

* **Financial statement of the preceding year;**

e. list of inventory of all immovable property assets;

The Chairpersons of Local Government shall submit a **copy** an annual report **under section.....of this Act** to the government not later than three months after the closing of each financial year after being tabled before the Local Government.

149. Section 243

~~Any disagreements or disputes arising amongst Local Governments and between Local Governments and another public body shall be referred to a Court of competent jurisdiction for resolution.~~

150. Section 244

~~A Local Government's rules of procedure shall be determined by Ministry of Home and Cultural Affairs and the Ministry responsible for Thromde may determine its rules of procedure in keeping with the provisions of this Act and other relevant laws; and the Chairperson shall conduct the proceedings of the Local Government in accordance with the rules.~~

150. Section 245 has been amended and new sub sections have been added as follows:

The rules and regulations of a Local Government shall among others, provide for:

- a) Rules regarding policies, procedures, administration, functions, powers, authority, obligations, finances, budget, revenue, tax, land management, and others with relation to and within the jurisdiction of the Local Government which are not specified under this Act but shall be in accordance with any other laws in force. **Notwithstanding this, Local Governments' rules and regulations on finances, budget, revenue, and taxes shall be in accordance with the Royal Government's financial rules and regulations.**
- b) The establishment, composition, powers, functions, procedures and duration of its Committee;
- e) ~~Participation in the proceedings of the Local~~

~~Government and its Committees, in a manner consistent with the Local Government's Act.~~

- * **The protection of the public from nuisance;**
- * **The protection of public properties;**
- * **The protection, promotion, and maintenance of public health and safety; and**
- * **Minimizing the potential for offensive behavior in public places.**

151. New sections have been added after section 245

New Sections

- * **The Local Government shall seek views from Dzongdag/relevant agency in framing rules and regulations. Provided that if the Dzongdag /relevant agency fail to Act within thirty days the same shall be deemed as accepted.**
- * **The Dzongdag/relevant agency shall provide their views required under sectionof this Act with a request for consideration in framing such rules and regulations**
- * **Local Government shall, as soon as practicable, after rules and regulations are made, give public notice of the making of the rules and regulations and ensure that it is available for inspection, free of charge, by members of the public:**
 - a) **At places it considers appropriate; and**
 - b) **In the electronic format where practicable.**

Review of rules and regulations made under this Act

- * **The Local Government shall review rules and regulations made by it under this Act as and when required.**

Rule making powers of Royal Government

- * **The Ministries responsible for the coordination of Local Government shall be empowered to prescribe rules and regulations that cut across Local Government.**
- * **If there is inconsistency in the rules and regulations made by the Royal Government and the rules and regulations made by the Local Government then the rules and regulations made by the Royal Government shall prevail.**

152. Section 246

~~Any addition, variation, or repeal of this Act shall be made by the Parliament.~~

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

153. New section on definition has been added after section 247 as follows:

In this Act, unless the context otherwise requires:

“Act” means the Local Government Act of the Kingdom of Bhutan, 2009;

“Budget” means a plan of intended expenditures along with a plan of how to meet them;

“Borrowing” means the incurring by any means of debt to raise money;

“Chiwog” means the territorial constituency for the election of Tshogpas to the Gewog Tshogde;

“Constituency” means territorial constituency for Thromde or Gewog Tshogdes;

“Chazhag Sathram’ means the sole authoritative document that shall record and establish the legitimacy of title to land of a juristic person in the country maintained under the custody of national Land Commission.

“Deliberative vote” means a vote cast by each member on an issue;

“Dependents” means an individual including children entirely dependant on the earnings of a person;

“Functional Literacy” means the same as defined in the Electoral Laws;

“Gratification” is not restricted to pecuniary gratifications or gratifications estimable in money and includes all forms of entertainment;

“Land” means soil including buildings or structures or all vegetation on land but does not include minerals;

“Land acquisition” means acquisition or expropriation of any land or property within the municipal boundaries in accordance with the law made by the Parliament or procedures established by the Royal Government.

“Land pooling” means a planning technique to redefine ownership of land in such a way that:

- a) The shape and configuration of plots is more appropriate for urban structures and uses, and**
- b) The size of all plots is reduced by an agreed proportion to create sufficient public and planned provision of roads, infrastructure, social facilities, open space and reserve plots.**

“Land transaction” means sale or purchase or registration or re-registration of land or plots including the creation, alteration or cancellation of a leasehold interest or mortgage of land.

“Member(s)” means elected Thuemis to Local Government.

“National agencies” means permanent or semi-permanent organization in the Government machinery;

“Observer” means any official or person invited to attend or participate in the deliberations of the sessions of the Local Government.

“Person” means any individual, government agency, partnership, corporation, organisation, enterprise, or other legal entity whether public or private and successor, representative, or agent of one of them;

“Prorogation” means adjournment of a meeting from one session to another;

“Public interest” means the needs arising out of socio-economic development and environmental concerns, including cultural, environmental, heritage, protection of land degradation, recreational, social and strategic interests as determined by the Government;

“Recreational area” means an area primarily intended for Active and passive recreational purposes;

“Residents” mean people lawfully residing in a Thromde irrespective of the status of nationality and availing the services provided by the Thromde;

“Resultant plot” means the land parcel formed as a result of addition or reduction of area on the existing plot.

“Revenues” includes taxes, duties, tools, fees, and charges;

“Thrompon” means an elected representative and the Chairperson of the Thromde Tshogde;

“Thuemi” means an elected representative to Local Government.

“Zomdu” means a meeting of residents of villages or communities.

3. SERVICE CONDITION BILL FOR THE HOLDERS OF THE CONSTITUTIONAL OFFICES OF BHUTAN, 2009

The Finance Minister presented the Bill on Service Condition Bill for the Holders of the Constitutional Offices. Prior to the deliberation on the Bill, the Minister while introducing the Bill mentioned that the Bill was drafted as per the provision under Article 31 Section 7 of the Constitution which states that the salary, tenure, discipline and other conditions of service of the holders of Constitutional Offices shall be as prescribed by law.

Holders of the Constitutional Offices are important for the institution of democracy and also for them to carry out their responsibilities with transparency and without fear and favour, thus, moved on with the deliberation of the Bill.

The Hon’ble Members of the National Assembly enacted the Bill with the following amendments.

1. **Title**

Entitlement and Service Conditions Bill for the Holders of the Constitutional Offices of the Kingdom of Bhutan 2009

2. **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 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 of the Constitutional Offices of Bhutan 2009** at its Third session of the First Parliament as follows:

3. **Section 3**

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

4. **Section 4**

The holders of the Constitutional offices shall resign with **post service benefits** ~~from the previous office~~, if

any, upon appointment to the Constitutional offices including the **member or the Commissioner**.

5. **New Section 5 (f)**

In the service for minimum of 20 years.

6. **Section 6**

The holders of the Constitutional offices should have a minimum qualification of formal university degree **and incase of Judiciary, they should have a minimum qualification of Bachelors of law degree.**

7. **Section 7**

The holders of the Constitutional offices, **member or the Commissioner** shall function as per the roles and responsibilities mentioned in the Constitution and ~~respective~~ **relevant** laws.

8. **Section 8**

The holders of the Constitutional offices, **member or the Commissioner** shall not be held liable for any Act discharged in good faith in the administration of responsibilities and duties under ~~respective~~ **relevant** laws. **However, the immunities granted shall not cover corrupt Acts committed by the members in connection with the discharge of their duties or cover other Acts of accepting money or any other valuables in consideration to speak or to vote in a particular manner.**

9. **Section 9**

The holders of the Constitutional offices, **member or the Commissioner** shall be entitled to receive adequate

salary, allowances and benefits in order to ~~maintain~~
~~apolitical status,~~ **ensure** independence, **prevent**
corruption and maintain highest standards of ethics
and integrity.

10. Section 10

The salary and allowance of the holders of the Constitutional offices, **member or the Commissioner** shall not be varied to their disadvantage after appointment.

11. Section 11

The salary of the holders of the Constitutional offices, **member or the Commissioner** shall be as per Annexure A of this Act.

12. Section 13

The allowances of the holders of the Constitutional offices, **member or the Commissioner** shall be as per Annexure A of this Act

13. Section 14

The holders of Constitutional offices, **member or the Commissioner** shall be entitled to a free accommodation or a house rent allowance as stipulated in Annexure A.

14. Section 16

The holders of the Constitutional offices, **member or the Commissioner** shall be entitled to receive such other benefits as applicable. ~~to civil servants from time to time.~~

15. Section 17

The holders of the Constitutional offices, **member or the Commissioner** shall be entitled to leaves, leave encashment, and leave travel concession as per the prevailing rules. ~~of the Government applicable to civil servants.~~

16. Section 18

The holders of the Constitutional offices, **member or the Commissioner** shall be entitled to telephone allowance as per annexure A.

17. Section 19

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

18. Section 21

Removal of the holders of the Constitutional offices shall be as per the ~~(Impeachment Act of the Kingdom of Bhutan)~~ Article 32 of the Constitution **and for the member or the Commissioner as per the relevant laws.**

19. Section 22

The holders of the Constitutional offices, **member or the Commissioner** shall be entitled to retirement benefits ~~such as provident fund, gratuity, journey and transport on retirement~~ as per the prevailing rules and regulations ~~applicable to civil servants.~~ However, with regard to gratuity, where an appointment is from among

~~civil servants and the tenure of such appointee expires five years or more before his/her superannuation age in the civil service, he/she shall be entitled to the maximum ceiling upon his retirement from the Constitutional post.~~

20. Section 23

The holders of the Constitutional offices, **member or the Commissioner** shall not be entitled to retirement benefits mentioned under section 22 of this Act in the event of impeachment **or removal**.

21. Annexure

Pay scale of the Constitutional Post Holders, Member or Commissioner

| Post/Office | Pay Scale | Allowance |
|----------------------------------|-------------------------|---|
| Chief Justice | At par with the Speaker | At par with the Speaker |
| Chairperson | 55,032-1102-71,556 | At par with the Secretary to the Government |
| SC Drangpon and HC Chief Justice | 50,446-1010-65,593 | do |
| HC Drangpon | 45,860-918-59,630 | do |
| Commissioner | 43,567-827-56,649 | 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 24th July 2009 at 11:30 am.

4. OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY

Representing the Foreign Minister, Minister for Trade and Economic Affairs presented the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

He submitted that the Penal Code of Bhutan doesn't mention anything on the sale of children, child prostitution and child pornography hence it is also necessary to amend the Act. He also said that if it is ratified from here, it is crucial for the United Nations to endorse the protocol.

After deliberating on the said issues, Hon'ble Members of National Assembly at 4 pm ratified the Convention by cent percent show of hands.

5. OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON THE INVOLVEMENT OF CHILDREN IN ARMED CONFLICT

Representing the Foreign Minister, Minister for Trade and Economic Affairs presented the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

Hon'ble Minister while presenting the protocol submitted that the Convention on the Rights of Children was ratified by the United Nations on may 2005 after which Bhutan also became a signatory on September 2005.

The purpose of the Convention was to free the children from participating in armed conflicts and although the convention started in 2000, it could be implemented only from July 2002.

One hundred and twenty seven countries ratified the convention and twenty eight more countries are signatory to it but it hasn't been ratified by their respective Parliaments.

According to the Protocol, all children below 18 years of age are not allowed to take part in armed conflicts and so the Ministry of Foreign Affairs while discussing with the Royal Bhutan Army also received support on the protocol. So the Hon'ble Members resolved to ratify the protocol.

Thus, on 16th July 2009 at 4 pm, the Hon'ble Members ratified the protocol by cent percent show of hands.

6. AGREEMENT ON THE ESTABLISHMENT OF SOUTH ASIAN REGIONAL STANDARDS ORGANISATION

The deliberation on the endorsement of the Agreement on the Establishment of South Asian Regional Standards Organisation by the National Assembly commenced after the Economic Affairs Minister, on

Foreign Minister's behalf, presented a summary of the background and objectives of the Agreement.

The Economic Affairs Minister said that intra-regional trade in the South Asian region was very less as compared to other regions. Since intra-regional trade in the South Asian region could not be explored to its full potential like in other regions, it was decided to establish a regional standards organisation during the Heads of SAARC Member States Meeting in August 2008.

He added that the need for harmonised standardization was felt since the intra-regional trade between some countries within the eight SAARC member countries was well-developed while trade between some member countries were still at the developing stage.

The organisation was established since there was the risk that problems relating to the standards of the products may emerge when under-developed countries traded with developing countries.

He said that the uniform standardisation of products in all the eight member countries would be beneficial while trading within the region and that the present Regional Standards Organisation was established in conformity to the international standards of international organisations. He put forth that the ratifying of the Agreement by the House would enable the Organisation to co-ordinate and carry out the necessary standardisation works. Therefore, in order to develop trade within the region, he submitted that the House

ratify the Agreement on the Establishment of South Asian Regional Standards Organisation.

On the issue, the members of the House presented their individual opinions and after having deliberated elaborately, ratified the Agreement with the entire members raising their hands in favour of the Agreement on July 16, 2009 at 1635 hrs.

Re-deliberation of the Bills received from National Council

1. LIVESTOCK (AMENDMENT) Bill, 2009

National Council after deliberating on Chapter 7 Section 16 resolved to retain the provision as in the draft. After transmitting the Bill to National Assembly, the Hon'ble Members of National Assembly re-deliberated on the issue again and resolved to amend it as "**The Ministry shall prohibit slaughter of animals and sale of meat on the auspicious days of 8th, 15th and 30th on the 4th day of the 6th month and on the descending day of Lord Buddha**".

2. WASTE PREVENTION AND MANAGEMENT BILL, 2009

Hon'ble Members of National Assembly deliberated on the Waste Prevention and Management Bill from 28th December 2008 till 29th December 2009. It was then transmitted to the National Council with amendments after which the Hon'ble members of National Council deliberated on it. It was retransmitted to the National Assembly on 13th July 2009 with amendments effected

to the Bill. The National Assembly re-deliberated on the Bill on 23rd July 2009.

1. The title of the Bill is amended as Waste Prevention and Management Bill, 2008-9.

2. **Preamble**

Being mindful of the adverse impacts of unmanaged waste on the fragile ~~ecology~~ **ecosystem** of the country;

Protecting the environment and human health through sound management of waste in pursuit of Gross National Happiness and the age old tradition of living in harmony with nature;

Acknowledging every citizen's duty to preserve, protect and respect the environment, culture and heritage of the nation as enshrined in the Constitution;

Ensuring sustainable development and inter-generational equity through conservation and enhancement of quality of the environment for the benefit of future generations; and

Aiming at prevention and reduction of volumes of waste generation, promotion of segregation, reuse, recycling and management of waste in an environmentally sound manner;

The Parliament of the Kingdom of Bhutan do hereby enact the Waste Prevention and Management Act at its **3rd session** of the Parliament.

3. **Section 13 (a)**

Implementing agencies shall prevent manufacturing of products **with the** potential to generate hazardous waste. The agencies shall also ensure that the reduction, storage, treatment and disposal of hazardous waste are addresses in an environmentally sound manner. In doing so, agencies shall:

Treat and dispose waste to avoid harm to human, animal and plants' health.

4. **Section 28(b)**

~~Issue—executive~~ **Appraise** government to **issue executive** orders prohibiting or restricting the sale, distribution, or use of excessive packaging or products resulting in large volumes of waste.

5. **Section 57(2)**

Agency includes municipal bodies under the ~~Thromde Act—2007~~ **Local Government Act 2009**, or any ministry, department, Corporations, Civil Society Organizations or autonomous public body of the Royal Government of Bhutan including local Government entities or Companies incorporating under the Companies Act 2000.

6. **Section 57(10)**

Amended in Dzongkha version

7. **Section 57(21)**

~~Throm~~ means a small urban area as defined in the applicable ~~Thromde Act~~.

8. **Section 57(22)**

Thromde means a township as defined in the Local Government Act 2009. ~~large urban area as defined in the applicable Thromde Act.~~

9. **New Section after Section 57(24)**

Local Authority means the local offices of the Implementing Agencies listed in section 21 of the Waste Prevention and Management Bill including Royal Bhutan Police and Dzongkhag Environment Committee.

3. **ZHABTO LEMI (REPEAL) BILL, 2009**

Hon'ble Members of National Assembly deliberated on the Zhabto Lemi (Repeal) Bill, 2009 during the second session of the First Parliament and thereafter transmitted the Bill to the National Council on 22nd July 2009. The Hon'ble Members of National Council deliberated on the Bill and it was then retransmitted to National Assembly on 23rd July 2009. The Hon Members resolved to revoke Zhabto Lemi.

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

The Civil Service Bill, 2009 was deliberated by the National Assembly from 3rd July 2009 to 8th July 2009. Thereafter it was transmitted to the National Council on 13th July 2009 with the amendment effected to the Bill by the National Assembly. After deliberating extensively by the National Council it was retransmitted to the National Assembly on 23rd July 2009 with

amendments. The National Assembly then re-deliberated on the Bill on 24th July 2009. The Bill was adopted with the following amendments.

1. New Section 7

Others as may be determined by Parliament from time to time.

2. Section 22 to 26

Section 22 to 26 to begin with “**The Chairperson and members of Commission.....**”

3. New section after Section 33

The Commission shall promote motivation and morale among civil servants.

4. Section 38

The Commission shall make rules and regulations, called the Bhutan Civil Service Rules and Regulations (or the BCSR), for effective administration of the Civil Service **in consultation with relevant agencies and stakeholders.**

5. Section 54

~~Refrain shall not engage from engaging~~ in sexual harassment.

JOINT SITTING RESOLUTION

1. POLICE BILL

The two Houses deliberated on the issues which could not be resolved on the Royal Bhutan Police Bill, 2009 on 27/7/2009. The two Houses resolved on the following:

1. Chapter 3 Section 4

The Minister for Home and Cultural Affairs may, from time to time, give **lawful** directions to the Chief of Police in matters related to law and order, prevention of crimes and development of Police in the country to make it people friendly and professionally efficient.

2. Chapter 4 Section 12

The Royal Bhutan Police shall **exercise administrative independence** in accordance with the provisions of this Act and the Chief of Police shall be responsible for ensuring its proper administration.

3. Chapter 4 Section 18

The Chief of Police, **the Additional Chief of Police and the Deputy Chiefs of Police** shall be appointed by His Majesty the Druk Gyalpo by warrant under His Hand and seal, from among the list of names recommended by the prime Minister from the list submitted by the Police Service Board based on seniority, qualification and capability.

4. Chapter 4 Section 20(a) and (b)

~~a) Additional Chief of Police; and~~

b) ~~Deputy Chiefs of Police~~

5. Chapter 7 Section 48

The Superintendents of Police/Officer Commanding/Officer In-charges shall work ~~in close coordination with~~ **under the supervision of** the respective Dzongdags/Dungpas **in accordance with National Disaster Management procedures** in times of disaster or natural calamities.

6. Chapter 12 Section 78

No Police officer shall investigate or enquire into any offence alone. He shall be assisted by such number of subordinate personnel **including female officer**, as deemed necessary.

7. Chapter 15 Section 102

The Royal Bhutan Police shall within its organization have an ~~intelligence~~ **Investigation** Bureau directly under the Chief of Police for the purpose of collecting intelligence and information relating to criminal and subversive Activities against the *Tsa-Wa-Sum* and shall be headed by the Deputy Chief (IB).

8. Chapter 15 Section 103

The National Central Bureau shall be located at the Police headquarter to liaise with the other Interpol member countries and Sub-regional Bureaus. The National Central Bureau with its secure I-24/7 Global Police Communication System shall assist the police ~~under the Intelligence~~ **Investigation** Bureau

9. Chapter 16 Section 117
The Additional Chief of Police, as the Chairperson, shall be the permanent member of the Police Service Board. The other members shall be appointed for a period of two years and shall not be reappointed for more than two consecutive terms.
10. Chapter 18 New clause after Section 129 (b)
Extra duty hours
11. Chapter 20 Section 161
The salary, allowances, benefits and other emoluments of a Police person shall be such as may be fixed by the Government upon the recommendation of the pay Commission.
12. Chapter 21 Section 171
Superannuation of a Police person shall be as given below:
 - a) Five years tenure or attaining the age of sixty years, whichever is earlier for the Chief of Police;
 - b) Fifty-eight years of age for other Police Officers; and
 - c) Fifty-six years of age for other Police persons.
13. Chapter 21 Section 174(a)
The Druk Gyalpo ~~The Police Service Board~~, if the resignation is submitted by the Chief of Police.
14. Chapter 23 Section 189
His Majesty the Druk Gyalpo by warrant under His hand and seal may be pleased to grant promotion to the Chief of Police on the recommendation of the Prime Minister.

15. Chapter 23 Section 190

The Chief of Police shall grant promotion to all officers on recommendations of the Police Service Board.

16. Chapter 27 Section 210(c)

Deputy Chief of Police shall mean an officer designated to look after the Administration and Logistics, ~~Intelligence~~ **Bureaus of Investigation** and the Crime and Operations Branches of the Royal Bhutan Police or any other post designated, from time to time.

After extensive deliberation on the Royal Bhutan Police Bill, 2009, Hon'ble Member at 10:00 am on 29 July 2009 voted for the Bill to turn into Act. 60 out of 68 Members present voted "YES" and thus the Bill was endorsed by the Parliament.

2. **PRISON BILL**

Two houses re deliberated on the issues which could not be resolved in their respective Houses. There were 4 points which could not be resolved and so it was discussed during the Joint Sitting of the Third Session of the First Parliament on 27th July 2009.

1. **Chapter 8 Section 74**

Retain as in the Bill

The dead body of the prisoner shall be handed over to the spouse/relatives in presence of witness and a receipt duly signed must be kept for records by the prison authority.

2. Chapter 12 Section 106

All prison staff shall be punishable under Section 117 of the **Royal Bhutan** Police Act if without lawful authority ~~commits the following:~~

3. Chapter 15 Section 139

The staff of the prison shall be trained on:

- c) ~~Guarding~~ **Management** of prison infrastructure;
- g) ~~Trainings on~~ **Dealing with women and children;**
- h) **First Aid;**
- i) **Counseling.**

4. Chapter 23 Section 182

The amendment of this Act by way of addition, variation or repeal shall be effected by a simple majority of the respective Houses or vote of no less than two-thirds of the total member of Parliament present and voting on a motion submitted by one-third of the members of either House, provided that the amendment does not undermine the functions and effectiveness of the Prison Division under the Royal Bhutan Police.

After extensive deliberation on the Prison Bill, 2009, Hon'ble Member at 09:50 pm on voted for the Bill to turn into an Act. The full House of 67 Members present voted "YES" and thus the Bill was endorsed by the Parliament.

3. WASTE PREVENTION AND MANAGEMENT BILL, 2009

The two houses re-deliberated on the issues which could not be resolved in their respective Houses. There were 6 points which could not be resolved and so it was discussed during the Joint Sitting of the Third Session of the First Parliament on 29th July 2009.

1. Third paragraph of the Preamble

Come into force on the.....day of the.....month of the **Female Earth Ox** year of the Bhutanese calendar, corresponding to theday2009.

2. Section 6

~~Fundamental~~ right and duty

A person has the ~~fundamental~~ right to a safe and healthy environment with equal and corresponding duty to protect and promote the environmental well being of the county as enshrined in the Constitution of the Kingdom of Bhutan.

3. Section 10

Retain as in the Bill

4. Section 44

A Person committing acts listed in (a) to (c) shall be liable to compensate aggrieved parties and to be sentenced in accordance with the Penal Code of Bhutan:

- a) The offence of importing of hazardous waste into the territory of Bhutan shall be:

- i) A felony of the third degree, if it creates a substantial risk of causing serious physical injury to human health and/or serious harm to the environment;
 - ii) A felony of the second degree, if it causes serious physical injury to human health and/or serious harm to the environment;
 - iii) A felony of the first degree, if it results in death and/or severe damage to the environment.
- b) The offence of disposing hazardous waste in public places shall be:
- i) A felony of the third degree, if it creates a substantial risk of causing serious physical injury to human health and/or serious harm to the environment;
 - ii) A felony of the second degree, if it causes serious physical injury to human health and/or serious harm to the environment;
 - iii) A felony of the first degree, if it results in death and/or severe damage to the environment.
- c) The offence dumping of hazardous waste into water bodies, land and emission of hazardous gaseous pollutants into the air shall be:
- i) A felony of the third degree, if it creates a substantial risk of causing serious physical injury to human health and/or serious harm to the environment;

- ii) A felony of the second degree, if it causes serious physical injury to human health and/or serious harm to the environment;
- iii) A felony of the first degree, if it results in death and/or severe damage to the environment.

5. Section 45

Retain as in the Bill

6. Section 56

A court of law or any specialized court or tribunal which ~~may be established by the Royal Government of Bhutan~~ **having has** jurisdiction shall hear cases arising under this Act and implementing regulations.

After extensive deliberation on the Waste Management and Prevention Bill, 2009, at 12:54 pm on 29th July 2009, Hon'ble Members voted for the Bill to turn into Bill. 63 out of 68 Members voted "Yes" and thus the Bill was endorsed by the Parliament.

4. LIVESTOCK (AMENDMENT) BILL

After much deliberation in both the Houses and in the Joint Sitting, it was resolved that Section 16(5) of the Livestock Act, 2005 be retained as in the draft.

Chapter on Fresh Meat Hygiene and inspection

The Ministry shall prohibit slaughter of animals and sale of meat on the auspicious days of 8th, 15th and 30th; on the 4th day of the 6th month; on the descending day of

Lord Buddha and during the whole of 1st and 4th months of the Bhutanese calendar.

5. LOCAL GOVERNMENT BILL

The two Houses deliberated on the points which could not be resolved on the Local Government Bill, 2009. The two Houses resolved on the following:

1. Section 220 of the original draft amended and to be placed under Chapter 2 as follows:

~~The Parliament shall establish from time to time a certain geographical, administrative or economical area of the country as a Thromde.~~

Notwithstanding the provision of the of the Land Act, Royal Government shall, by an executive order, declare an area of Dzongkhag as Dzongkhag Thromde or area(s) of Dzongkhag Yenlag Thromde(s) based on the recommendations and criteria prescribed by the Ministry responsible for urban development.

2. Section 225 of the original draft amended and to be placed under Chapter 2 as follows:

~~The Thromde Tshogde shall consist of:~~

- e) ~~The Thrompon, who is directly elected as the Chairperson; and~~
- d) ~~The Thromde Thuemis of not more than 10 and not less than seven elected members.~~

* **Thromde Tshogde shall consist of not less than seven and not more than ten elected members, including the Thrompon.**

* **Where no Thromde Tshogde has been established the Thromde administration shall function under Dzongkha Administration or Gewog Administration. Such Thromde shall function in keeping with the policies, plans and rules and regulations approved by the Ministry responsible for urban development.**

3. Section 44 to 54 is resolved to retain it as in the draft with an additional addition as:

The Local Government may be dissolved by the Government if two-thirds of the members are either removed or resigned.

4. Section 55 to 63 to be deleted.

5. Section 180

The Dzongkhag Tshogdu shall, on a written request made by not less than two-third of the total number of members, have the authority to review and ~~quash~~ **revoke** resolutions, ordinances, rules and regulations promulgated by any Gewog Tshogde and Thromde Tshogde on the grounds that such bye-laws, resolutions or ordinances are against public interest.

6. Section 183 (b)

Promote balanced economic development in the Gewogs and Thromdes in the Dzongkhag;

7. **Section 185(c)**
~~Monitor and evaluate implementation of plan Activities in the Dzongkhag; and~~
8. **Section 186 (a)**
Review and approve Dzongkhag's annual budget proposal prepared by the Dzongkhag Administration based on ~~the approved five year plans~~ **the ceilings for submission to the Ministry of Finance;**
9. **Section 203 (c)**
Regulate allocation of irrigation water in accordance with the provisions of the ~~Land Act of Bhutan;~~ **relevant laws**
10. **New section after 205**
Gewog Tshogde may mobilize, spend, ~~and invest money~~ for the support of its functions in accordance with the Royal Government's policies and rules and regulations.
11. **New section after 230 as (i) and (j)**
 - i. **Approve local area plan including land pooling schemes and any other relevant planning techniques; and**
 - j. **Authorize preparation of structure plans including land use plan and recommend for their approval by the Ministry responsible for urban development;**
12. **New section after 233 (a)**
 - **Betterment tax**

- Perform any other functions as may be prescribed by law.

13. Title of section 211

Powers and functions of Gewog Tshogde Chairperson and head of the Gewog

14. Section 79

~~All members of Local Government shall not be bound or influenced by voters, interest groups, Parliamentary groups or political parties in the discharge of their duties.~~

15. New section after 81

- * **The Thrompon shall serve as the Thromde Thuemi in the Dzongkhag Tshogdu wherever there is a Dzongkhag Thromde Tshogde.**

- ~~* In case of bigger Yenlag Thromdes with administrative machinery, Dzongkhag Tshogdu Thuemi from Yenlag Thromde shall liaise with it.~~

16. New section after 121

Modification or cancellation of resolution

No resolution of a Local Government shall be modified or cancelled within six months of its adoption, except by a resolution passed by not less than two-third of the total number of members of that Local Government.

17. Section 122 and New section after 122

~~The head of administration shall dispatch the resolutions, within one week, to all members as well as to other officials, ministries and departments concerned for necessary Action. The officials, ministries and departments concerned shall report back on the Action taken within one month from the receipt of the resolutions.~~

The Local Government Secretariat shall dispatch the final resolution within one week of its endorsement to all members of the Local Government, concerned Members of Parliament, Department of Local Governanee, the concerned Dzongkhag Administration, Dungkha Administration, Thromde Administration, Gewog Administration and/or the concerned national agencies.

The Dzongkhag, Dungkha, Thromde, and Gewog administrations and national agencies shall, within sixty days of receipt of resolution, submit a written report to the concerned local Government on the status of the implementation of the resolution.

18. New section after 172

The Parliamentarians shall have access to the status on information on implementation status of the developmental Activities in their respective Constituencies for the purpose of review.

19. Section 174

~~The Gewog Administration shall submit reports to the Dzongkhag Administration as may be determined by~~

~~law. The Dzongkag Administration shall likewise submit reports to the Royal Government.~~

The Gup and Thrompon shall submit timely report to Dzongkhag Tshogdu and the Dzongkhag Tshogdu in turn shall submit to the Department of Local Government and Government and concerned Ministries and agencies through the Dzongkhag Administration.

20. Section 175

~~The Department of Local Governance under the Ministry of Home and Cultural Affairs shall be responsible for coordination pertaining to inter-local Government and between local Government and central Government, and facilitation of inter-Dzongkhag and Centre Dzongkhag relations.~~

21. Section 176

The Ministry of Home and Cultural Affairs in **consultation with concerned agencies and Local Government** shall be empowered to prescribe rules and regulations to support the implementation of this Act.

22. New section after 178

The Ministry responsible for urban development shall supervise and monitor and evaluate Activities of Dzongkhag Thromdes.

23. Section 8

Local Government shall be entitled to levy, collect and appropriate taxes, fees, ~~duties~~, tolls and fees in

accordance with such procedure and subject to limitations as may be provided for by law.

24. New section after section 22

~~Local Government~~ Gewog Tshogde shall prepare and submit monthly accounts simultaneously to the Dzongkhag Administrations and Department of Public Accounts. In the case of Thromde Tshogde, such accounts shall be submitted directly to the Department of Public Accounts.

25. New chapter after 171, under Local Government Administration

There shall be Local Government Administrations which shall comprise the Dzongkhag Administration, Dungkhag Administration where necessary, Gewog Administration and Thromde Administration.

26. Section 190 (b) and new section after (i)

- b) Be responsible for the implementation of social and economic development policies, plans and programs of the Dzongkhag as **approved by the Government** ~~resolved by the Dzongkhag Tshogdu;~~

27. New sections after 190(i)

Direct, supervise and monitor all Activities of the Dungkhag and Gewog administrations;

28. New Sections after Section 190

Allotment of Land to Local Government

- * Local Government may apply to Dzongkhag**

Administration for allotment of Government land or Government reserved forests land in accordance with prevailing laws. In the case of Thromdes, all land falling within their jurisdiction shall be registered in the name of concerned Thromdes.

- * The Royal Government shall, with the concurrence of the concerned Local Government, be competent to allot Government land or Government reserved forests land to such Local Government either conditionally or otherwise.**
- Notwithstanding above, no lease, sale or other transfer of any such immovable property by the Local Government shall be valid without the prior sanction of the Royal Government.**

29. New section after 191

The Dzongdag shall be ~~the representative of the Government~~ the Chief Executive officer of the Dzongkhag.

Any intra-ministerial Dzongkhag transfer of the Dzongdags shall be done by the Ministry of Home and Cultural Affairs.

30. Section 194 (b)

Be responsible for reporting to the Royal Government any serious shortcomings observed in the functioning of the Dzongkhag Tshogdu, Gewog Tshogde and Thromde Tshogde;

31. Section 196

The Dzongdag shall ~~attend~~ **participate in** the sessions of the Dzongkhag Tshogdu and **Thromde Tshogde** ~~as an observer as and when the Chairperson extends an invitation.~~

32. New section after Section 198

The Dzongdag shall organize relief measures during natural disasters and emergencies in coordination with the department of Disaster Management and Local Government.

33. New section after Section 199

Dungkhag Administration

- * **Dungpa shall be the head of the Dungkhag Administration.**
- * **He shall be accountable to Dzongdag.**
- **Dungkhag Administration shall be supported by the civil servants.**

34. New section after Section 219

Powers, and functions of Thromde Administration

- **There shall be Thromde Administration for ~~Dzongkhag~~ a Thromde staffed by civil servants, other employees and agencies.**

35. New sections after Section 237

Carry out structure and land use planning within the Thromde and recommend ~~their~~ for approval by the Ministry responsible for urban development;

- * Carry out land pooling schemes in Thromdes and any other appropriate planning techniques approved by Thromde Tshogde;
- * Notwithstanding anything contained in the Land Act, 2007 or any law in force, approve all transactions and registration related to land and properties within the jurisdiction of Thromde and effect registration in the Thromde Property Register maintained by the respective Thromdes;
- Administer regulations related to minimum plot size within the Thromde areas. Notwithstanding the provisions of the Land Act minimum plot size in Thromde in general shall be 13 decimals whereas in the planned areas the minimum plot size shall be as per the size specified in the approved local area plan;

36. New Section after Section 240

- a) ~~Establish and maintain~~ Administrator an appropriate organizational structure for the Thromde administration;
- e) ~~Develop, adopt and disseminate a code of conduct for Thromde staff;~~

~~37.~~ Chapter 18

Offence for failure to declare conflict of interest

- * A member who votes or fails to disclose his/her interest in contravention ~~to section~~ of this Act

shall be fined up to a maximum of ninety days' national daily minimum wage rate.

Penalty for breach of the Code of Conduct

e) Removal from membership.

Provided that the matters under subsection (e) of this section shall be dealt in accordance with section..... of this Act.

38. Section 129 (d)

~~list of all commercial investments and returns;~~

39. Section 244

A Local Government's rules of procedure shall be determined by Ministry of Home and Cultural Affairs and the Ministry responsible for Thromde in consultation with the Local Government ~~may determine its rules of procedure in keeping with the provisions of this Act and other relevant laws; and the Chairperson shall conduct the proceedings of the Local Government in accordance with the rules.~~

40. New Section after Section 247

Gup means head of the Gewog.

After extensive deliberation on the Local Government Bill, 2009, at 10:30 am on 29th July 2009 68 Members voted for the Bill to turn into an Act. 44 Members voted "Yes", 23 voted "No" and 1 Member abstained. Since the Bill failed to secure two third majority the Local

Government Bill could not be passed. However since it is an urgent Bill it was resolved that the Bill will be re-deliberated during the Extraordinary Sitting.

6. CIVIL SERVICE BILL, 2009

Two houses re-deliberated on the issues which could not be resolved in their respective Houses. There were 6 points which could not be resolved and so it was discussed during the Joint Sitting of the Third Session of the First Parliament on 29th July 2009.

1. Preamble

Whereas, it is expedient to enact an umbrella Civil Service Act to provide for a “small, compact and efficient” Civil Service in the Royal Government and to ensure effective utilization of human resources by ensuring uniformity of personnel policies and Actions across the Civil Service **in pursuant to Article 26 of the Constitution of the Kingdom of Bhutan.**

2. Section 2

All other laws, rules and regulations pertaining to civil servants, so far as they are inconsistent with this Act are hereby repealed including the following:

- a) Section 41, pertaining to personnel management, of the Election Act, 2008.
- b) Section 16, pertaining to provisions on organizational structure and personnel requirement, and sections 19 and 98, of the Audit Act 2006.

- c) Section 6, pertaining to provisions on organizational structure and personnel requirement, and section 27 of the Anti-Corruption Act 2006;
- d) ~~The relevant sections of the Judicial Service Act 2007 pertaining to personnel Actions of civil servants be repealed or amended as per section 4, 5, 6, 7, 8 and 9 of this Act. The Drangpons of all courts under the Judiciary are excluded as they shall be governed by the Judicial Service Act 2007.~~

3. Section 6

~~Civil servants in all the three branches of the Government, including Autonomous Agencies, and Constitutional Bodies shall function in accordance in~~ **line** with the policies, rules, regulations and procedures framed by the Royal Civil Service Commission.

The Hon'ble Members could not resolve on the above proposal, so after putting up the motion to vote whether to support the said proposal or not, 40 members out of 68 voted "Yes" and 23 voted "No" and 5 abstained. Hence, the above proposal was accepted.

4. Section 8(b)

Provide an umbrella Civil Service Act to ensure parity, consistency and uniformity of personnel Actions within the **civil service** ~~three branches of the government, Constitutional Bodies and Autonomous Agencies under the Government~~

The Hon'ble Members could not resolve on the above proposal, so after putting up the motion to vote whether to support the said proposal or not, 22 members out of 62 voted "Yes" and 37 voted "No" and 3 abstained. Hence, the above proposal was not accepted and resolved to retain it as in the draft.

5. New section after 13 (f)

Have rendered a minimum of 30 years of service in case of the Chairperson and 20 years for other members with a clean record either in the Civil Service, Public or Private Sector.

6. Section 27

The Commission shall submit an annual report on its policies and performance, along with a summary of its findings from the periodic personnel ~~audits~~ **review**, to ~~His Majesty~~ the Druk Gyalpo and the Prime Minister.

7. Section 35

The Commission ~~shall~~, **may** as per the ~~directives~~ **recommendation** of the Royal Government, create, abolish, upgrade or alter Agencies, including names in consultation with line Agencies.

The Hon'ble Members could not resolve on the above proposal, so after putting up the motion to vote whether to support the said proposal or not, 49 members out of 65 voted "Yes" and 12 voted "No" and 4 abstained.

Hence, the above proposal was not accepted and resolved to retain it as in the draft.

8. New addition in Section 36 as 36 (c) and 36(d)

- c. Create, abolish or classify positions**
- d. Appoint, promote and transfer civil servants in accordance with BCSR**

9. Section 39

The Commission shall provide ~~adequate autonomy~~ **full authority** to the Constitutional offices in relation to ~~recruitment~~, personnel management in terms of promotion, transfer and training. **However, recruitment of their employees will be subject to section 57 of this Act.**

The Hon'ble Members could not resolve on the above proposal, so after putting up the motion to vote whether to support the said proposal or not, 33 members out of 61 voted "Yes", 25 voted "No" and 3 abstained. Hence, the proposal put forth by NC was accepted.

10. Section 40

The Commission shall conduct personnel ~~audits~~ **review** throughout the Civil Service of the Kingdom to ensure parity, consistency, uniformity and compliance with the provisions of this Act, and personnel policies, the BCSR and other rules, regulations and procedures of the Royal Government.

11. Section 54

~~refrain from expressing adverse opinions against the Royal Government.~~

The Hon'ble Members could not resolve on the above proposal, so after putting up the motion to vote whether to support the said proposal or not, 40 members out of 68 voted "Yes", 26 voted "No" and 2 abstained. Hence, the proposal put forth by NC was accepted.

12. New Sections after Section 58

~~**A candidate for the post of a Secretary shall:**~~

- ~~a) have a minimum of Master's Degree;~~
- ~~b) have served a minimum of four years of relevant experience in EX2 level or equivalent experience.~~

~~**A candidate for the post of a Dzongdag shall**~~

- ~~a) have a minimum of bachelor's degree;~~
- ~~b) have served a minimum of four years of relevant experience on P1 level or equivalent experience.~~

~~The above proposal submitted by the National Council was resolved to be inserted in the BCSR~~

13. Section 59

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

14. Section 60

Hon'ble Members of Parliament resolved to delete the section from the Bill.

15. Section 72

The Commission shall grant promotion to an eligible civil servant, subject to such conditions prescribed by the BCSR which must inevitably include proven leadership and positive feedback for the promotion of a senior civil servant to **EX3 and above**.

16. Section 75

The Commission shall determine the placement of a civil servant as the head of an Agency in the civil service ~~other than those prescribed by the BCSR from time to time~~ **other than Dzongdag**.

17. Section 85

The Competent authority may at any time, by notice in writing, require a civil servant to retire compulsorily with ~~or without~~ post service benefits from the service on such grounds as prescribed by the BCSR.

The Hon'ble Members could not resolve on the above proposal, so after putting up the motion to vote whether to support the said proposal or not, 36 members out of 64 voted "Yes", 24 voted "No" and 4 abstained. Hence, the proposal put forth by NA was accepted.

18. New Section after Section 91

Such immunity shall not cover corrupt Acts committed by any member of the Commission and the civil servants in connection with the discharge of their duties or cover other Acts of accepting money or any other valuables in consideration to Act in a particular manner.

19. Section 93

~~The Commission is the ultimate guardian for all civil servants in the Kingdom. As such, a civil servant shall not be prosecuted for any matter in respect of Civil Service directly by any party in a court of law without:~~

- ~~a) routing the case through the Commission, and;~~
- ~~b) exhausting all the administrative Actions as specified in the BCSR.~~

A civil servant shall not be prosecuted for any matter in respect of civil service directly by any party in a court of law without, ~~consulting~~ **notifying** the Commission.

The Hon'ble Members could not resolve on the above proposal, so after putting up the motion to vote whether to support the said proposal or not, 40 members out of 67 voted "Yes", 21 voted "No" and 6 abstained. Hence, the proposal put forth by NC was accepted.

The two Houses while deliberating on the Bill could not resolve on few clauses and as a result at 9:30 pm on 29th July 2009, out of the full House of 67 Members present for voting on the Bill to turn into an Act, 5 voted "Yes", 55 voted "No" and 7 voted for Abstain. Thus the Civil Service Bill could not be endorsed as an Act and accordingly resolved to re-deliberate during the Extraordinary sitting since it is an urgent Bill.

EXTRAORDINARY SITTING

The following were the reasons outlined by the Speaker for convening the Extraordinary Sitting of the Parliament.

As per the Royal command, the Extraordinary Sitting of the Parliament is being convened on the 22nd day of the seventh month of the Earth Female Ox year corresponding to 11th of September, 2009. The Speaker welcomed the Prime Minister, Cabinet Ministers, Chairperson of the National Council, Leader of Opposition and the Members of both the Houses to the Extraordinary Sitting of the Parliament which he said was of paramount significance.

On behalf of the Parliament, the Speaker felicitated Hon'ble Member Tashi Wangyal, an eminent member to the National Council appointed by His Majesty the King.

The Speaker informed that the main reason for the convening of the Extraordinary Sitting of the Parliament as to the cognizance of everyone was the Civil Service Bill and the Local Government Bill which were declared as urgent Bills by the Government in the Third Session. He however said that despite extensive deliberation on the Bills during the Joint Session of the Parliament on 28th and 29th September, 2009, it could not be passed due to disagreement on few clauses.

As per the Royal decree, the Principles of Rules of Procedure drafted by the Joint Committee of the two Houses are:

1. Criteria for Declaring Bills as Urgent.
2. Addressing Disputed Bills in future.
3. Voting on Bills in a Joint Sitting.
4. Drafting of Bills

Beside this, the Speaker informed that the Local Government Bill which has been reviewed by the Joint Committee shall be deliberated and accordingly be adopted. He also said that the Civil Service Bill shall be deliberated in the next Session of the Parliament.

During the deliberation, the members submitted that it is important to contemplate for both the present and future. The Members also expressed their hopes and prayers that the law would be passed fruitfully in the interest of the people and the Government.

The first principle among the Rules of Procedure is:

Principle No.1: Criteria for Declaring Bills as Urgent

The draft on Criteria for declaring Bills as urgent prepared by Hon'ble Member Sangay Zangmo, Karma Rangdol, Tshering Dorji and Ugyen Dorji, the members of the Joint Committee, and other five members was presented to the Parliament by Hon'ble Member Tshering Dorji.

To this, the members deliberated on each and every section of the draft. The Minister for Economic Affairs, the Minister for Labour and Human Resources and other members submitted that henceforth the laws should be made according to the Constitution. They also submitted that the laws should not be enacted in haste and rather it should be enacted with enough time for the purpose. They further added that as far as possible, the urgent Bills should be dealt minimum in number given the limited time of the Session.

It was submitted that the criteria for declaring Bills as urgent should be related to national sovereignty and security, natural disasters and issues of national importance which the law fails to enforce. It was also submitted that it would be better if the Parliament identifies the Bills as urgent, further adding that the urgent Bills be identified by two third majority of the Parliament and pass in the same Session.

Some members submitted that it would be of no detriment even if the Bills are adopted with simple majority of the Houses according to the Constitution. They also submitted that while identifying Bills as urgent, it should be regarded by every one. They further submitted that opinions should be gathered to the maximum, scrutinized and then the Bills be adopted with two third majority.

Some other members submitted that adoption of Bill with two third majority or simple majority is not important but identifying urgent Bills based on its

principles presented to the Parliament is important for the members to contemplate. It was also submitted that the laws could be enacted according to the Constitution, further stating that the rules of procedures should not be finalized immediately but after the members thoroughly exchange their views.

Some members submitted that the Government and either of the Houses can insinuate on the urgent Bills. They also added that if either of the Houses can insinuate on the urgent Bills then the two third majority of the Parliament as mentioned is not requisite. They further submitted that it is important to materialize either on the two third majority of the individual Houses or the simple majority or the two third majority during the Joint Sitting of the Parliament.

In other countries, the urgent Bills are adopted immediately without following the system of legislative reading. On the contrary, in our country the system of identifying urgent Bills is based on a rigorous system. Thus it was submitted that given the existing system of deliberation for the adoption of the Bills, it is important to consider inconveniencies in the process.

It was submitted that if the urgent Bill is identified according to the necessity, the two third majority vote and deliberating on identifying and holding an urgent Bill in esteem is not requisite. It was also submitted that it would be convenient to identify an urgent Bill by the individual Houses instead of the Parliament.

Besides, it was submitted that according to the proposal of the committee, an urgent Bill should be a Bill to immediately assuage problems in times of security threats, economic instability and natural calamities in the country.

As per the Constitution, the Parliament is responsible for making laws. In line with this, the Parliament also has the prerogative and accountability with regard to laws. However, it is important to contemplate whether the Parliament or others are going to identify an urgent Bill. It was submitted that according to Article 10(10) of the Constitution “The Prime Minister shall present an Annual Report on the state of the nation, including legislative plans and the annual plans and priorities of the Government, to the Druk Gyalpo and to the joint sitting of Parliament”. Therefore it was submitted that since the priorities of making laws are formulated by the Government, the responsibility to identify urgent Bills may also fall on the Government.

Thus, it was apparently submitted on the possibilities of urgent Bills not only to be tabled during the Extra Ordinary Sitting but also during the regular Sessions of the Parliament.

It was submitted that if the Government identifies an urgent Bill, it is important for every Member of Parliament to recognize it instead of only two third majority.

The Leader of the Opposition submitted that a Bill can be presented by the Government and either of the

Houses. He added that the Government can present a Bill according to article 10(10) and the Houses of the Parliament can present a Bill according to article 13 (2) of the Constitution. It was also submitted that there is no detriment if the Rules of Procedure are clearly mentioned in the draft. Therefore it was submitted that it would be better to pass an urgent Bill presented by the Government or either of the Houses by two third majority of the Parliament.

As per article 2(16)(d) of the Constitution, the Druk Gyalpo can command Bills in the Parliament. Thus it was submitted that according to the need of time, in case the Druk Gyalpo commands a Bill it should be identified as an urgent Bill without the requirement of two third majority and urged it to be included in the rules of procedure.

Other members submitted that instead of making numerous procedures to identify an urgent Bill presented by the Government or either of the Houses, it would be suitable if the urgent Bill is decided upon by the Chairperson and the Speaker for National Council and National Assembly respectively.

Some members though agreed on the identification of urgent Bill by the Chairperson and the Speaker, they submitted that incase the deliberations on the urgent Bills identified by the Chairperson and the Speaker doesn't go well, there is a possibility of they being discredited. Therefore it was submitted that it would be

appropriate if the joint sitting of the Parliament could identify the urgent Bills.

It was also submitted that if numerous procedures are made for the presentation of an urgent Bill, the people may not regard the one who commands the Bill in the Parliament if deliberations are not finalized. Therefore it was urged not to introduce different new procedures to present urgent Bills.

Besides, it has been specified in the draft that adequate time should be allotted for urgent Bills. However it is also specified that if the Bill is not identified as urgent Bill, the adoption of Bill should be as per the procedures of other Bills. Therefore the members highlighted the disparities in the interpretation on these sections.

To this, the Minister for Education and the Minister for Information & Communication submitted that to avoid such problems in a democracy, according to the erudition of political pundits, words like 'negotiation', 'bargaining' and 'compromise' should be included in the rules of procedure. They also added that it would facilitate the deliberations.

It was submitted that according to the deliberation by some members, the Government is seemingly viewed with no trust and confidence. It was further submitted that it is important not to confound the responsibilities of the Parliament and the Government. In addition, it was submitted that it is important to contemplate the future while deliberating instead of deliberating on percentage, two third majority or null.

To this, the Speaker said that the current deliberation is on the Bill and not on the law. Hence it is not requisite to be passed by the Parliament. He however said that the deliberation was as per the royal command to formulate procedures for the purpose. He also said that the deliberation is not going to be finalized immediately but opinions of the members are to be reviewed by the joint committee before the Fourth Session and adopt during the same Session. The deliberation on the criteria for declaring Bills as urgent concluded with the Speaker apprising the joint committee on the significance to contemplate the opinions of the members.

Principle No.2: Addressing Disputed Bills in future

The draft on addressing disputed Bills in future prepared by the joint committee was presented to the Parliament by the Hon'ble Member Kuenlay Tshering

While deliberating, the members sought clarifications if the procedures in the current draft are merely with respect to the urgent Bills or other Bills as well.

It was submitted whether the Bill should be referred to the joint committee for review before the convention of the joint Session of the Parliament for deliberation or it should be referred only when problems arise during the Session. Therefore it was urged to formulate a proper procedure for the purpose. Some members submitted that it is likely even if the deliberations take place on the Bill reviewed by the joint committee.

Some members submitted that as per the royal message, it is imperative to minimize the impediments and the joint Sessions of the Parliament. Therefore it was submitted that to avoid any impediment while deliberating on the Bill, it is vital for the institution of a joint committee and formulate apropos procedures.

The deliberation on addressing disputed Bills in future concluded with the Speaker urging the joint committee to review the opinions expressed by the members.

Principle No.3: Voting on Bills in a Joint Sitting.

The draft rules of procedures on voting on Bills in a joint sitting researched by Hon'ble Members Kuenlay Tshering, Sangay Khando, Yangku Tshering Sherpa, Karma Lhamo, Tshering Penjore of the joint committee and other five members was presented to the Parliament by Hon'ble Member Kuenlay Tshering.

While deliberating, the members submitted that it would be legitimate if the Bill is passed with a two third majority irrespective of clause wise consideration of a Bill or on the Bill as a whole.

To this, the Speaker apprised that despite the entitlement of the Speaker and the Chairperson to cast the 'deciding vote' in respective Houses, there is no such procedure in the case of joint session of the Parliament. Therefore he submitted that it is imperative to formulate a procedure for the Speaker to cast the deciding vote in the process of formulating rules of procedure for the benefit of future Speakers.

While deliberating, some members affirmed that the Speaker himself being an elected member of a constituency should have the right to vote. On the contrary, other members submitted that the Speaker being the presiding officer during the joint session and as a chairperson of the Parliament, he should remain just and unbiased.

To this, the Minister for Home & Cultural Affairs submitted that whatever the procedure for the Speaker to cast a vote in the joint session may be, the rules of procedure of the Speaker should be as per the Speaker's Act 2004. Therefore since the relevant law may require review, it would be appropriate to deliberate on the issue when it is reviewed. To this some members affirmed and the deliberation on voting on Bills in a joint sitting concluded with the Speaker submitting that the procedures for the Speaker to vote in a joint sitting could be deliberated in future.

Principle No 4: Drafting of Bills

The Hon'ble Members of the Joint Committee namely Hon'ble Member Pema Lhamo, Hon'ble Member Tashi Wangmo, Hon'ble Member Ugyen Wangdi and Hon'ble Member Gyem Dorji after discussing thoroughly in the Committee and Committee Chairperson Hon'ble Ugyen Wangdi presented the draft proposal to the House.

The Parliament while deliberating on the proposal submitted that that although the purpose and the aims were incorporated, it was felt necessary that the public consultation, views from concerned agencies and also

status of implementation of the Acts were to be mentioned.

It was also submitted that henceforth, Government should issue strong order stating the reasons for drafting a Bill. The Bill drafters should also see the consistency with the existing Acts and also the Acts of the other countries. For drafting of Bills, the office of Attorney general should be enhanced and the Secretariats of the two houses when it comes to Private Members' Bill. It was also proposed that the passing of the Bill should go through first reading, second reading and third reading.

Some of the Hon'ble Members questioned whether a Bill is drafted inline with the government policies or if the government policies are made in line with the Acts. They proposed that such issues should be kept in mind while drafting the Bills and said that the concerned agencies should draft the Bills themselves.

In addition, skepticism was raised on procedures of first, second and third legislative reading in order to minimize the duration of deliberation on a Bill. It was also propounded that in order to pass the Bills at the earliest and to uphold the procedures of the country, it doesn't seem necessary to follow other countries' procedure and hence the procedure of legislative reading.

While deliberating on such Bills, the need for legislative reading has emerged in countries where educated population was surpassed by the uneducated. Therefore, in order to read out the connotation of the resolutions,

such practices became widespread and it is not literally indispensable while deliberating on a Bill.

To this, the members of the joint committee set forth that the legislative reading in the rules of procedure has been included as per the National Assembly Act.

The Speaker welcomed the various opinions of the members on the rules of procedure based on the four principles formulated by the joint committee.

However the rules of procedure being a draft instead of law, the Speaker informed that although it is not finalized, the members of the joint committees should contemplate the opinions of the members and utterly review it. With this the deliberation on rules of procedure based on four principles as per the Royal Message concluded at approximately 4:17pm on 11th of September, 2009.

LOCAL GOVERNMENT BILL, 2009

Although the Government declared the Local Government Bill as an urgent Bill and deliberated during the third session, some of the sections from the Bill could not be resolved. Hence, the Bill could not be passed. Thereafter it was presented to the Druk Gyalpo and after receiving the Royal Kasho, the two Houses formed a Joint committee comprising of 11 members namely Hon'ble Minister of Works and Human Settlement, Yeshey Zimba, Opposition Leader Tshering Tobgay, Hon'ble Member Kuenlay Tshering, Hon'ble

Member Karma Yoezer Reddy, Hon'ble Member Pema Lhamo, Hon'ble Member Naichu, Hon'ble Member Karma Donen Wangdi, Hon'ble Member Ugyen Tenzin, Hon'ble Member Rinchen Dorji, Hon'ble Member Tshering Tenzin and Hon'ble Member Durga Prasad Chettri. The committee after reviewing the Bill thoroughly came up with another draft which was presented to the House by the Chairperson of the Committee.

The Members while deliberating on the Bills raised no objection to the Bill and thus according to the procedure, Minister for Home and Cultural Affairs moved the motion to adopt the Local Government (Amendment) Bill. All the 67 members present voted for the Bill. But the Members submitted that the Bill be called as Local Government Bill and not Local Government (Amendment) Bill since the sections in the Bill were all new. Hence the Parliament on 22nd day of the 7th Month of Female Earth Ox Year on the Bhutanese Calendar corresponding to the 11th day of September 2009 adopted the Bill.

General views after the adoption of the Bill.

The Members while expressing their general views on the Bill submitted that the Local Government Bill is an important Bill both for present and future and hence some of the clauses could not be resolved. The issues were addressed to the Druk Gyalpo since the Bill is important for the election of the Local Government leaders,

The Members also conveyed their appreciation to the Joint Committee members for their work done by doing thorough research, discussing on the unresolved clauses properly and for making it possible to adopt the Local Government Act.

Some of the Members submitted that since the Local Government Act will be implemented mainly by the Local government leaders, it is important that they acknowledge and respect the Act while implementing it. Thus, the Parliament on 22nd day of the 7th Month of Female Earth Ox Year on the Bhutanese Calendar corresponding to the 11th day of September 2009 ended the Extraordinary Sitting with the hope and prayers for the success of upcoming Local Government election.



September 11, 2009

(JIGME TSHULTIM)
SPEAKER