

# **Legislative Rules of Procedure 2017**

## **Preamble**

*Whereas*, the Constitution of the Kingdom of Bhutan provides for a Joint Sitting of the two Houses of Parliament to pass Bills on which the two Houses have disagreements;

*Whereas*, pursuant to the Royal Message granted to Parliament by the Druk Gyalpo Jigme Khesar Namgyel Wangchuck to effectively resolve disputes arising between the two Houses of Parliament;

*Recognizing*, the need to provide a forum for the creation of as much consensus as possible on a Bill by bringing together different views of the two Houses of Parliament to facilitate the passing of Bills;

Therefore, it is expedient to hereby adopt the Legislative Rules of Procedure 2017 as follows:

## **CHAPTER 1**

### **PRELIMINARY**

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

1. This Procedure shall:
  - (a) Be called the Legislative Rules of Procedure 2017; and
  - (b) Come into force on the 12<sup>th</sup> Day of the 4<sup>th</sup> Month of the Iron Female Bird Year of the Bhutanese Calendar corresponding to the 6<sup>th</sup> Day of June, 2017, upon endorsement by two third majority of the Members of Parliament in the Joint Sitting.

#### **Supersession**

- 1A. Any provision(s)/section(s) of the rules of individual House concerning the Joint Sitting of Parliament that is inconsistent with the Legislative Rule of Procedure 2017 is null and void.<sup>1</sup>

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<sup>1</sup> As revised in 2017

## **CHAPTER 2**

### **GENERAL**

#### **Types of Bills**

2. Bills shall generally be classified as:
  - i. Government Bills; and
  - ii. Private Members' Bills.
3. Government Bills shall be introduced by a Minister and Private Members' Bills shall be introduced by a member.
4. The mode of passage for both Government Bills and Private Members' Bills shall be the same as provided for in the Constitution and the relevant laws.

## **CHAPTER 3**

### **URGENT BILLS**

#### **Criteria for Urgent Bills**

5. A Bill shall be declared as "Urgent" when it is required to prevent or address threats to the security and sovereignty of the country.
6. The term security used herein above shall cover national political security, economic security and social security.
7. An "Urgent Bill" may also be declared when the government is required to respond instantly to the effects and impacts of unforeseen natural or manmade calamities.

#### **Procedure for Declaration**

8. An Urgent Bill may be proposed by the Government or either House of Parliament.
9. The Prime Minister, on behalf of the Government, or a Member, on behalf of either House, shall submit the proposal to declare a Bill as Urgent to the Speaker of the National Assembly.
10. The proposal shall provide justifications for declaring a Bill as Urgent, and also clarify the legislative intent, purpose, scope and specific provisions of the concerned Bill.
11. The Speaker of the National Assembly shall consult the Chairperson of the National Council on the proposal. The Speaker and the Chairperson shall consult the Legislative

Committees or other relevant Committees of the respective Houses to determine the urgency of the proposed legislation.

12. Upon fulfillment of the above conditions, the Speaker of the National Assembly shall declare the Bill as “Urgent”.

## **CHAPTER 4**

### **PASSING OF BILLS**

#### **Ordinary Bills**

13. A Bill introduced in either House of Parliament shall be subjected to the stages and procedures as elaborated in the Acts and the Rules of Procedure of the respective Houses and the Legislative Rules of Procedure 2017.

#### **Urgent Bills**

14. While an ordinary Bill passed by one House may be passed by the other House during the next session of Parliament, Urgent Bills shall be passed in the same session.
15. Other Bills shall be put aside to give priority for deliberations on an Urgent Bill.
16. The Speaker of the National Assembly and the Chairperson of the National Council may reduce the stages and procedures for deliberation of an Urgent Bill within their respective Houses though the overall procedure for adoption by the two Houses and the Joint Sitting, if required, shall be the same as for ordinary Bills.

#### **Withdrawal of Bills**

17. A Bill being discussed in a House may be withdrawn at any stage if leave is granted by the House upon the member in charge moving a motion to withdraw the Bill.
18. A Bill passed by one House may be withdrawn by the other House on the grounds of, but not limited to, the legislative proposal covered in the Bill being dropped or a more comprehensive Bill on the same subject being proposed at a later date.
19. Where a Bill has been passed by the National Assembly and is pending before the National Council, the National Council may recommend to the National Assembly that leave be granted to withdraw the Bill.
20. After the motion is adopted by the National Council, a message to that effect shall be sent to the National Assembly where the member in-charge moves for leave to withdraw the Bill.
21. If leave is granted by the National Assembly to withdraw the Bill, the message of concurrence shall be transmitted to the National Council upon which the Bill shall be treated as withdrawn.

22. The same procedure shall be followed where the National Assembly wishes to withdraw a Bill passed by the National Council.
23. If leave is not granted by the other House for withdrawal of the Bill, the Bill shall then follow the procedures outlined for Disputed Bills.

## **CHAPTER 5**

### **PROCEDURE FOR DISPUTED BILLS**

#### **Consensus**

24. Parliament shall be guided in its legislative function by the principle of consensus and shall endeavour to adopt laws through the process of reconciliation.
25. To this end, Parliament shall seek to create spaces that will facilitate consensus building process in the form of Joint Committee(s).
26. The Joint Committee(s) shall review disputed portions of a Bill and propose amendments and formulate text that will be acceptable to all parties and groups involved.
27. Parliament shall respect the recommendations proposed by the Joint Committee(s) to the extent that members shall not seek to make further amendments during the joint sitting as this may enhance the possibility of the Bill getting rejected. However, the Members of Parliament shall be permitted to express their approval or disapproval of the Committee's recommendations through voting on the Bill.

#### **Establishment of Joint Committee(s)**

28. Pursuant to the Constitution, a Joint Committee(s) of Parliament shall be established from time to time in order to review and resolve disputes between the two Houses on any Bill.
- 28A. Whenever necessary, Joint Committees shall also be formed to review any issues besides legislation which are the subject of deliberation in a joint sitting, which shall follow the same procedure, mutatis mutandis, stipulated for disputed provisions of a Bill.<sup>2</sup>
29. Prior to the Joint Sitting of Parliament, the House in which the Bill originated may propose the establishment of a Joint Committee to resolve the differences.
30. The request for the Joint Committee(s) shall be transmitted to the other House by message which shall contain an outline of the purpose of the Committee and propose the number and names of members to represent the House.
31. The House receiving the message shall in turn propose a proportional number of members to the Joint Committee(s) and appoint the time and place for holding the Committee meetings.

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<sup>2</sup> As revised in 2017

32. Once the originating House has been informed of the agreement of the other House, the Committee shall be established by orders of reference from both Houses.
33. Bills shall be referred to the Joint Committee(s) which shall be authorized by the Speaker of the National Assembly in consultation with the Chairperson of the National Council.

#### **Membership of Joint Committee(s)**

34. The Joint Committee(s) shall comprise of five members from the National Council and seven members from the National Assembly.
35. Upon the motion for reference of a Bill to a Joint Committee, both the Houses of Parliament shall nominate/elect and appoint members to the Joint Committee(s).
36. The Minister in -charge of the Government Bill or Member - in- charge of the Private Bill may be included as a member of the Joint Committee(s) as his/her presence shall be necessary for explanation and clarification.
37. A Chairperson and a Vice-Chairperson for the Joint Committee(s) shall be elected at the first sitting of the Committee and, as necessary, during the course of the session.
38. The Chairperson of the Committee may invite member(s) who are non-members of the Joint Committee(s) to attend its sittings as a special invitee.
- 38A. Any member may propose that the Chairperson or the Vice Chairperson of the Joint Committee be changed if he/she is felt to be breaching the Committee Rules pertaining to the Proceedings of the Joint Committee or any relevant provisions of these Rules and produce the evidence thereof. Such a proposal in the Joint Committee must be seconded by one of its members.<sup>3</sup>
- 38B. The decision to accept or reject such a proposal shall be done through simple majority of the total number of members of Joint Committee present and voting in which the Chairperson or the Vice chairperson accused shall not participate. The Vice Chairperson shall preside over sitting for the removal of the Chairperson and vice versa.<sup>4</sup>
39. The Joint Committee(s) shall be assisted by staff from the respective Secretariats.

#### **Functions of Joint Committee(s)**

40. The Joint Committee(s) shall review the texts of the Bill which shall be confined to the clauses on which the two Houses of Parliament do-not agree.
41. The Joint committee(s) studying a Bill may report it with or without amendments.

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<sup>3</sup> As revised in 2017

<sup>4</sup> As revised in 2017

- 41A. No member of the Joint Committee shall raise any issue other than the matter that has been referred to the Committee that may delay, derail or prevent the proceedings of the committee.<sup>5</sup>
- 41B. If a member is found in contravention of the above section, the Joint Committee shall decide on the replacement of the member through voting and the Chairperson of the Joint Committee shall recommend to the presiding officer of a House where the member belongs that the member be replaced.<sup>6</sup>
42. The Joint Committee(s) shall not suggest an amendment to any words of the Bill to which both Houses have already agreed, unless the words are directly affected by the disagreement.

### **Sitting/venue/quorum**

43. In general, the Joint Committee(s) shall hold its sittings prior to the Joint Sitting.
44. The Joint Committee(s) shall be empowered to sit at the conclusion of one session and/or before the commencement of the next session.
45. A sitting of a Joint Committee or a sub-Committee(s), whether formal or informal, shall invariably be held within the House(s).
46. Meetings of the Joint Committee(s) shall be *in camera* and shall not be made open to public.
47. Whenever necessary, the Joint Committee(s) may travel for collecting evidence, consultation or site visits related to subject matters on the authorization of the two Houses.
48. The quorum to constitute a sitting of a Joint Committee shall be three fourth of the total number of members of the Joint Committee(s).

### **Proceedings of Joint Committee(s)**

49. Only one Bill shall be referred to one Joint Committee.
50. In case Joint Committee(s) are established to resolve differences between the two Houses over any Bill, a recess may be declared during which period the Joint Committee(s) shall review the disputed clauses and prepare their report.
51. The proceedings of Joint Committee(s) shall be conducted in the same manner as in the Houses of Parliament but in a more intimate and informal atmosphere.

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<sup>5</sup> As revised in 2017

<sup>6</sup> As revised in 2017

52. During the course of the proceedings of Joint Committee, the members shall report back to their respective Houses on the status of disputed provisions of the bill for their comments.
53. The proceedings and decisions of the Joint Committee(s) shall be treated as confidential. Committee members or affiliated persons shall not communicate the proceedings, decisions and documents to the media or any other entities.
54. The Joint Committee(s) may summon any person or relevant agency including a Member –in-charge of the Bill to provide clarification in connection with matters under discussion.
55. While considering the disagreements on a Bill, a member shall be guided by the best interest of the nation and the people and to this end, shall seek to arrive at a consensus.
- 55A. If the Joint Committee is not able to arrive at a consensus, members shall take decisions by voting through show of hands.<sup>7</sup>
- 55B. A disputed section of a bill shall be passed by a simple majority of the total number of members of the Joint Committee.<sup>8</sup>
- 55C. In case of bilateral, multilateral, regional and international treaties, agreements, conventions and protocol etc, either the consensus or the decision by voting will not be on individual sections or articles but on all the disputed sections or articles unless such legal instruments can be passed with conditions.<sup>9</sup>
56. A Minister who desires to address the committee, may be permitted to do so.
57. The Staff of the Secretariat assisting the Joint Committee(s) shall draw up the records of the proceedings of the each sitting of the Committee(s).

### **Report to Parliament**

58. A Joint Committee shall make recommendations to Parliament related to a Bill that has been referred to it by way of a separate report.
59. Once the Joint Committee(s) has arrived at consensus or taken a decision through voting,<sup>10</sup> it shall produce and submit a report to the Speaker and Chairperson of National Assembly and National Council respectively.
- 59A. If the Joint Committee is not able to arrive at a consensus, it shall recommend that:
  - (1) The disputed Bill including words, phrases, sections or articles already agreed upon by both the Houses be voted upon in its entirety, OR
  - (2) The Speaker defer the Bill from voting and such bill may be reintroduced in future following due legislative process.<sup>11</sup>

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<sup>7</sup> As revised in 2017

<sup>8</sup> As revised in 2017

<sup>9</sup> As revised in 2017

<sup>10</sup> As revised in 2017

- 59B. In the event that the same Bill is reintroduced at a later stage following due legislative process by the member in-charge, and the Bill reaches the stage of consideration by the Joint Committee, it shall recommend only that the Bill be voted upon in its entirety in the event of failure to arrive at consensus again.<sup>12</sup>
60. At the Joint Sitting, the Chairperson of the Joint Committee shall present its report.
61. If the motion moved by a member to amend the Joint Committee's recommendation is supported by a simple majority of the members present and voting, the House shall refer the proposal to the Joint Committee for its review and recommendation.
62. The final report shall not be open for further amendment at the Joint Sitting and after the report has been submitted by the Chairperson/Member, the Bill shall be put to vote by the Speaker. It shall be passed if endorsed by not less than two-thirds of the total number of Members of both the Houses present and voting.
63. Where the Bill fails to obtain the endorsement of not less than two-thirds of the total number of members of both the Houses present and voting, it shall be declared a Dead Bill and no Bill of the same substance may be introduced in Parliament in that year.

#### **Tenure and Dissolution of Joint Committee(s)**

64. Once the Bill has been either passed or rejected by the Joint Sitting of Parliament, the Joint Committee shall stand dissolved.
65. Where the Joint Committee(s) has not completed its work by the end of the session, it ceases on prorogation, but it may be revived in a subsequent session by Parliament.

## **CHAPTER 6**

### **AGENDA FOR JOINT SITTING**

- 65A. The agenda for the Joint Sitting of Parliament for Disputed Bills shall be decided by the Speaker of the National Assembly in consultation with the Chairperson of the National Council.<sup>13</sup>
- 65B. The agenda for the Joint Sitting of Parliament for constitutionally mandated issues such as boundary, Public Accounts Committee Report, Prime Minister's Annual Report and any other emergency issue which requires to be deliberated in the Joint Sitting shall be

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<sup>11</sup> As revised in 2017

<sup>12</sup> As revised in 2017

<sup>13</sup> As revised in 2017



decided jointly by the Speaker of the National Assembly and the Chairperson of the National Council.<sup>14</sup>

## **CHAPTER 7**

### **VOTING IN JOINT SITTING**

#### **General Principles**

66. No item placed on the final agenda for vote shall be passed without voting.
67. Unless a matter is in contravention to the provisions of the Constitution of the Kingdom of Bhutan, a resolution of Parliament or any laws in force, the Speaker shall not refuse to take up such matter for voting. Where the Speaker refuses to take up any matter for voting, he/she shall state the grounds for refusal.
68. No vote shall be held on separate sections or articles of a Bill which has been resolved by the Joint Committee(s).
69. The required two-thirds shall be calculated on the total number of 'Yes' and 'No' votes cast. Members who vote "Abstain" are treated as present in the House but not voting.
70. In case the number works out to a decimal figure, the next whole number shall be taken as the number of votes required.
71. Members who cast 'abstain' votes shall be considered as present to constitute the quorum for voting.

#### **Voting Procedure**

72. Once the Speaker has ordered that the Members be called in for a recorded vote, the voting machine will be prepared and the Members shall vote.
73. A bell shall be rung to call in the members for voting.
74. After the vote has been cast and counted, the result of the vote shall be shown on the screen at the order of the Speaker. The Speaker shall then declare the motion carried or defeated.

#### **Deciding vote of the Speaker**

75. Where the results of a vote are short of attaining the two-thirds majority, the Speaker may cast the deciding vote.
76. However, in the case where the Speaker casts the deciding vote, the required two-thirds majority shall be recalculated and Sections 69 and 70 of this rule shall apply.

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<sup>14</sup> As revised in 2017

## **Record of Votes**

77. The Speaker shall cause the votes cast of each member to be recorded and disclose such records, which shall, among others, include the names of members voting in a particular manner and the number of votes, except in the case of voting through secret ballot.<sup>15</sup>
78. The names of the members voting for and against a Bill shall be published on the websites of both Houses after the vote is taken and entered in the published proceedings of the Joint Sitting of Parliament.<sup>16</sup>
- 78A. All decisions of a Joint Sitting of Parliament shall be submitted to the Druk Gyalpo by the Speaker for:
- (1) Royal Assent, where a Bill is passed, or an international, regional or bilateral instrument is ratified;
  - (2) Information, where a resolution is passed on any other issue deliberated in a Joint Sitting.<sup>17</sup>

## **CHAPTER 8**

### **MISCELLANEOUS PROVISIONS**

#### **Amendment**

79. Amendments to the Legislative Rules of Procedure shall be made upon the approval by the presiding officers of the two Houses of Parliament after due consultation with their respective Houses.

#### **Authoritative text**

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

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<sup>15</sup> As revised in 2017

<sup>16</sup> As revised in 2017

<sup>17</sup> As revised in 2017