

# ELECTION COMMISSION OF BHUTAN



**Election Dispute Settlement Rules and Regulations of the Kingdom of Bhutan, 2018**

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## **Election Dispute Settlement Rules and Regulations of the Kingdom of Bhutan, 2018**

In keeping with the Election Act of the Kingdom of Bhutan, 2008, to have an efficient, effective, fair and transparent system to adjudicate election related offences and to facilitate settlement of election disputes, the Election Commission of Bhutan hereby adopts and promulgates the *Election Dispute Settlement Rules and Regulations of the Kingdom of Bhutan, 2018*.

### **1. Title, Extent, Application and Commencement**

1.1 These Rules shall:

- 1.1.1 Be called the *Election Dispute Settlement Rules and Regulations of the Kingdom of Bhutan, 2018*.
- 1.1.2 Extend to the whole of the Kingdom of Bhutan during the election period for election to Parliament and the Local Government.
- 1.1.3 Come into force with effect from 15<sup>th</sup> of February 2018 corresponding to the 30<sup>th</sup> Day of 12<sup>th</sup> Month of the Fire Female Bird Year of the Bhutanese Calendar.

### **2. Definition**

2.1 In these Rules, unless the context otherwise requires:

- 2.1.1 “Body” means the Central Election Dispute Settlement Body or the Dzongkhag Election Dispute Settlement Body;
- 2.1.2 “Commission” means the Election Commission of Bhutan formed in accordance with the Article 24 of the Constitution of the Kingdom of Bhutan;
- 2.1.3 “Election Period” means the period beginning on the day of issue of notification and ending with the declaration of results;
- 2.1.4 “Non-election Period” means the period after the declaration of the election result till the notification of the next election;

2.1.5 “Petition Period” means the period of ten working days counting from the date of declaration of result in the constituency within which an election petition may be submitted;

2.1.6 “Violation” means breach of Rules and Regulations, Orders and any other prohibitory Notifications during the Election Period; and

2.1.7 The words importing the singular number shall include the plural number and vice-versa.

### **3. Jurisdiction of Courts Barred**

3.1 A Court of Law shall, as per the Election Act, in order to provide an uninterrupted election process in the Kingdom, not have jurisdiction to question the legality of any action taken or of any decision given under these Rules and Regulations, during the Election Period by the Commission or its officers.

### **4. Election Dispute Settlement System**

4.1 The Commission shall have in place an Election Dispute Settlement System to hear and redress the complaints and grievances relating to elections during the election period.

4.2 The system and the procedures shall facilitate an efficient, effective, fair and transparent adjudication of election related offences.

### **5. Election Dispute Settlement Body**

5.1 The Commission shall establish Election Dispute Settlement Bodies at two different levels.

5.2 The Body at the national level shall be designated as the Central Election Dispute Settlement Body (CEDSB).

5.3 The body at a Dzongkhag shall be designated as the Dzongkhag Election Dispute Settlement Body (DEDSB).

**5.4 At the first meeting of any EDSB conflict of Interest shall be declared as per the Election Dispute Settlement Form No. 10 and decision taken to recuse or noted accordingly.**

## **6. Composition of the Election Dispute Settlement Bodies**

6.1 The CEDSB shall comprise of:

6.1.1 One of the Election Commissioners as Chairperson;

6.1.2 Secretary of the Commission as Member;

6.1.3 Concerned Head of Department/Division/Officer of the Commission as may be appointed for a case as Member; and

6.1.4 Legal Officer as the Member-Secretary.

6.2 The members of a DEEDSB, as appointed for a case, shall comprise of:

6.2.1 Chief Election Coordinator as the Chairperson;

6.2.2 Dzongrab, Dungpa or Senior Sector Head as Member;

6.2.3 Dzongkhag Legal Office as Member;

6.2.4 Concerned Gewog Administrative Officer as Member; and

6.2.5 Dzongkhag Electoral Officer as the Member-Secretary.

6.3 The quorum for any proceeding of the CEDSB shall be the total strength of the Body.

6.4 The quorum for any proceeding of the DEEDSB shall be at least three members of the Body.

6.5 The Chairperson shall be responsible for the overall working and conduct of the Body.

6.6 The Member-secretary shall be responsible for efficient conduct of business of the Body.

## **7. Function of the Election Dispute Settlement Bodies**

7.1 The Functions of the Election Dispute Settlement Bodies are to:

7.1.1 Receive election complaint during the election period;

- 7.1.2 Direct an Investigation Committee for further investigation of the complaint relating to an election;
  - 7.1.3 Hear investigation report of the Committee and arguments of the Parties and give a reasoned decision; and
  - 7.1.4 Provide legal advice on the issues relating to election dispute as may be referred to by the election officials from time to time.
- 7.2 The Election Dispute Settlement Bodies, in the discharge of their duties and functions, shall be generally guided by the legal and judicial principles and processes as reflected in the Laws of the land and specifically follow the procedures set out in these Rules and Regulations.

## **8. Powers of the Election Dispute Settlement Bodies**

- 8.1 An Election Dispute Settlement Body shall have the power to:
  - 8.1.1 Summon and enforce the attendance of witnesses;
  - 8.1.2 Require production of any evidence; and
  - 8.1.3 Requisition any public record from and Court or office or person.

## **9. Election Complaints**

- 9.1 **An Election Complaint may be lodged by a candidate, political party or any voter of that constituency.**
- 9.2 An election complaint may be lodged to:
  - 9.2.1 Chief Election Commissioner;
  - 9.2.2 Chief Election Co-ordinator;
  - 9.2.3 National Observer;
  - 9.2.4 Micro Observer; or
  - 9.2.5 Returning/ Assistant Returning Officer.

Provided an election complaint related to performance of newspapers, radio, television stations and Social Media shall be directly lodged to the Media Arbitrator.

- 9.3 The Returning Officers and Observers shall immediately, or at the earliest possible, forward any complaint received by him/her to the Chief Election Commissioner or Chief Election Co-ordinator and in case of complaint related to any form of media to the Media Arbitrator.
- 9.4 An election complaint must:
- 9.4.1 Indicate a clear case of controversy related to election that is in breach of the electoral laws and the ground for complaint;
  - 9.4.2 Contain material facts;
  - 9.4.3 State the names of the Parties/Candidates/ individuals against whom the complaint is filed;
  - 9.4.4 Be signed by the petitioner with address and contact details; and
  - 9.4.5 Be in writing and cover all points as in the Election Dispute Settlement Form 1.
- 9.5 An election complaint shall be accepted only if it is presented with adequate basis for it to be pursued under the laws.
- 9.6 The decision-making authorities shall ensure that the confidentiality of the name of complainant, if necessary, shall be upheld and witness protection, if requested, provided as per the laws of the Kingdom of Bhutan.
- 9.7 An Election Complaint may be withdrawn only by leave of the EDSB.**
- 9.8 An application to withdraw an election complaint may be granted by the EDSB only upon ensuring:**
- 9.8.1 The complaint is not a criminal offence under the laws; and**
  - 9.8.2 Consent of both the parties;**
- 9.9 When a withdrawal is granted, a written decision providing the reason shall be issued with:**
- 9.9.1 Order requiring the complainant to pay a specified amount to the respondent to compensate cost thereof incurred or such portion thereof as it may think fit and direct the issuance of notice of withdrawal; and**

**9.9.2 The parties notified that neither shall be entitled to file a subsequent complaint if the cause of action or claims involved in it are same as the withdrawn election complaint.**

## **10. Registration of Complaint & Scrutiny**

10.1 The Chief Election Commissioner or a Chief Election Coordinator shall, immediately upon receipt of the election complaint, examine as to whether:

10.1.1 The complaint be dismissed for want of prima facie case;

10.1.2 Further investigation by an Investigation Committee with hearing and decision by the respective Dispute Settlement Bodies can be proceeded;

10.1.3 Direct the Secretariat of the Commission or a Dzongkhag Administration to take appropriate action;

10.1.4 Issue a Show Cause Notice as in the Election Dispute Settlement Form No. 2;  
or

10.1.5 The case is to be decided upon conduct of a summary hearing of the parties involved.

10.2 The Commission or Chief Election Coordinator shall, if a case is accepted to be dismissed, give a reasoned decision for such dismissal within two days.

10.3 The Commission shall, if a case is not dismissed, direct the Legal Services of the Commission to register the case in the Case Register to be referred to the CEDSB, or a DEDSB.

10.4 The Chief Election Coordinator shall, if a case is not dismissed, direct the registration of the case in the Case Register of the DEDSB to be decided by it.

10.5 The Legal Services shall, under the supervision of the Chairperson of the CEDSB and the respective Dzongkhag Electoral Officer under the supervision of the Chairperson of the DEDSB in the Dzongkhags, maintain a Case Register, as in the Election Dispute Settlement Form No.3.

10.6 An election official can, if he/she has reasonable ground to believe that an offence has been committed or is going to be committed in contravention of the Electoral



Laws, initiate an investigation without a complaint being lodged, with the approval of the Chief Election Coordinator and/or the Chief Election Commissioner and submit the Investigation Report to the DEDSB or the CEDSB for appropriate action.

**10.7 The decision-making authorities shall ensure that the confidentiality of the name of the complainant, if requested, shall be upheld and the case taken up further suo moto as provided under Rule 10.6.**

## **11. Investigation Committee**

11.1 The CEDSB/DEDSB shall, whenever necessary, appoint an Investigation Committee.

11.2 The Investigation Committee appointed by the CEDSB shall comprise of the:

11.2.1 Legal Officer as the head of the Committee;

11.2.2 A senior officer from the relevant Department/Division of the Commission as Member; and

11.2.3 Concerned Dzongkhag Electoral Officer as Member.

11.3 The Members of an Investigation Committee shall not participate in the decision-making process of the CEDSB.

11.4 The Investigation Committee appointed by the DEDSB shall comprise of the:

11.4.1 Legal Officer as the head of the Committee;

11.4.2 Concerned Gewog Administrative Officer as Member; and

11.4.3 Dzongkhag Electoral Officer as Member.

Provided in those Dzongkhags where there are no Legal Officers, the Dzongkhag Electoral Officer shall head the Investigation Committee; where the concerned GAO is not able to participate, the GAO of the nearest Gewog shall be co-opted as an Investigation Committee Member; and where the Chairperson has to refrain from a case for valid reasons, the Deputy Chief Election Coordinator shall be authorized to officiate as the Chair.

11.5 The Members of an Investigation Committee shall also be a member participating in the decision-making process of the DEDSB.

## **12. Investigation**

12.1 The Investigation Committee shall, on the instruction of the Election Dispute Settlement Bodies carry out the preliminary investigation of the case.

12.2 The Investigation Committee shall investigate and establish the facts for decision of the CEDSB/DEDSB.

## **13. Powers and Functions of an Investigation Committee**

13.1 An Investigation Committee shall, immediately upon the direction of the CEDSB/DEDSB, investigate the complaints expeditiously and report the findings at the hearing of the case.

13.2 The Investigation Committee may interrogate during the investigation any witness and require the production of relevant documents from any entity/person as per the laws.

13.3 The Investigation Committee shall have the authority to obtain any assistance from the *Midhey Gothrips* as deemed appropriate during the investigation.

13.4 The Investigation Committee shall in its report, format as in the Election Dispute Settlement Form No.4, submit its findings with recommendations to the Bodies, as the case may be.

## **14. Notice for Hearing**

14.1 The Chairpersons of the Bodies upon receiving the information shall:

14.1.1 Notify the concerned Political Parties to nominate one competent person each, giving a minimum of two days' advance notice, preferably a person with a legal background to represent it at the hearing of the election cases.

14.1.2 Notify the concerned Candidate(s) to National Council or Local Government, giving a minimum of two days' advance notice, to either

nominate a competent person to represent him/her at the hearing of the election case or he/she may choose to attend in person;

- 14.1.3 Notify any other person if he/she is the complainant or the accused, giving a minimum of two days' advance notice, to either attend in person or nominate a competent person to represent him/her at the hearing of the election case;
- 14.1.4 Inform that the right granted under Rule 14.1.1 to a Political Party shall be treated as waived off if it does not depute a Representative to attend the hearing; and
- 14.1.5 Inform that the right granted under Rule 14.1.2 to a Candidate to the General Election, National Council and Local Government Elections or the right granted under Rule 14.1.3 shall be treated as waived off if neither a Representative is deputed nor he/she attends the hearing.

Provided a Notice of the Hearing shall be issued earlier than two days in cases where the respondents reside in a remote area requiring longer travel time.

- 14.2 The Notice for the hearing shall be made in writing, in the format as in the Election Dispute Settlement Form No. 5, a copy each of which duly signed by the recipient must be obtained as confirmation of the delivery to the concerned.

## **15. Rights, Duties and Obligation**

- 15.1 The Political Party, Candidate or any person who is party to a case, or their authorized representative, during a hearing, may:
  - 15.1.1 Clarify on the issues in the report presented by the Committee under Rule 13.1, on behalf of the Party/Candidate/Party worker;
  - 15.1.2 Cross-check the veracity of the evidence; and
  - 15.1.3 Present evidence.

- 15.2 Both parties to a case shall have the right to ask the other party or the Committee to produce evidence.
- 15.3 It shall be the duty of both parties and witnesses to speak the truth as a person shall be guilty of offence of perjury, if he/she knowingly makes a false declaration or gives false evidence with regard to the issue or point in question.
- 15.4 The Political Party, Candidate or any person who is party to a case may, authorize in writing a competent person to represent it/him/her at the hearing of an election case as in the Election Dispute Settlement Form No.6.
- 15.5 The parties shall be guilty of the offence of cantankerous litigation, if he/she lodges or launches, a malicious or malafide complaint with perverse intent to embarrass or harass another party/candidate without having a reasonable basis for the complaint or knowing that the complaint does not involve a concrete controversy or case.

## **16. Hearing**

- 16.1 A hearing shall be conducted as scheduled once the Notice has been delivered.
- 16.2 The CEDSB and the DEEDSB shall, when and where necessary, ask a witness to come and testify during the hearings.
- 16.3 The Chairperson, presiding over the hearing as per the procedure shall:
- 16.3.1 Explain the rights and duties as in Rule 15;
  - 16.3.2 Require both parties to the case to introduce themselves;
  - 16.3.3 Ask the Chairperson of the Investigation Committee to present the Investigation Report;
  - 16.3.4 Allow both parties to:
    - 16.3.4.1 Clarify or seek clarification on issues contained in the investigation report,
    - 16.3.4.2 Cross-check or view the evidence, and/or
    - 16.3.4.3 Present evidence;
    - 16.3.4.4 Allow a member of the DEEDSB or Investigation Committee to cross examine the submission made by the parties or witness; and

16.3.4.5 Require both parties to make their closing statement and give it in writing after which no more submissions on the case shall be entertained.

16.4 The sitting arrangement for the hearings shall be as in the Election Dispute Settlement Form No.7.

16.5 Each case shall be given a maximum of two hearings before a decision is given.

## **17. Authority at Dzongkhag**

17.1 The DEDSB shall appoint an Investigation Committee, as provided under Rule 11, in order to investigate and take action on any complaint made during Parliamentary Elections and Local Government Elections if it views that an election complaint relates to violation of Rules and Regulations, Orders and any other Notifications of the Commission.

17.2 The Dzongkhag Investigation Committee shall investigate a case within five days of receipt of direction under Rule 17.1.

17.3 The DEDSB shall forward the case to the CEDESB if it finds the case *prima facie* an offence of grave nature.

17.4 The DEDSB shall submit the report on every case settled to the Commission within three days of its closing.

17.5 The DEDSB shall have the power to investigate the case and take action without forwarding the case to the Commission, subject to Rule 17.4, if the element under Rule 17.1 are fulfilled.

## **18. Local Government Leaders**

18.1 The DEDSB shall not delegate any of its powers and functions to the Local Government leaders while a *Gup* or *Mangmi* may be co-opted to support the Investigation Committee provided it does not entail conflict of interest.

## **19. Decision**

19.1 The CEDSB or the DEDSB shall:

19.1.1 Decide the case based on the investigation report, substantiated submission by either parties during the hearing and/or any other information from a relevant and valid source;

19.1.2 Arrive at a conclusion based on the majority of the Members provided the Chairperson shall have the deliberative vote in case of a tie;

19.1.3 Give a reasoned decision on the case per the Electoral Laws and other laws of the land within two days after the conclusion of the hearings; and

19.1.4 Provide and confirm delivery of the decision to the Political Parties, Candidates or any other person who is party to the case.

19.2 A decision of the CEDSB or a DEDSB on an election dispute shall be presented as provided for in the format as in the Election Dispute Settlement Form No. 8

19.3 The decision of the CEDSB shall be final and binding unless appealed within the period of two days of issue of the decision.

19.4 The decision of the DEDSB shall be final and binding unless appealed within the period of five days of issue of the decision.

19.5 The parties shall sign the Acknowledgement of Decision on receipt of the decision as in the Election Dispute Settlement Form No.9.

## **20. Summary Decision of the Case**

20.1 A case shall be summarily decided without further investigation after giving an opportunity to the concerned parties to be heard, if:

20.1.1 No real legal dispute exists;

20.1.2 There is no dispute on the material facts of the case; and

20.1.3 There is dispute with the facts of the case but there is enough evidence to decide the case.

## 21. Appeal.

21.1 The appeal on the decision of the DEEDSB shall lie to the CEDSB within five days from the date of the decision.

21.2 The CEDSB shall issue a decision on an appeal within five days of its receipt.

21.3 An appeal on the decision of the CEDSB shall lie to the Commission comprising of the Chief Election Commissioner who shall preside over the proceedings with the two Election Commissioners within two days of the decision.

Provided that the Election Commissioner who, as the Chairperson of the CEDSB, has presided over a particular case that is appealed shall only be responsible to present the facts of the case.

21.4 The appeal shall lie to *en banc* Commission on the question of law and facts.

21.5 Commission may decide the case based either on the findings of the Investigation Committee or the CEDSB or require production of additional evidence before giving the final decision.

21.6 The Commission shall issue a decision on an appeal within five days of its receipt.

21.7 An appeal shall not lie from the decision of the Commission except in accordance with the Election Act.

## 22. Order on Decision

22.1 The decision of a Body shall be signed by all participating member of it.

22.2 The decision shall be issued under an Order as follows:

22.2.1 The Order on the decision of a DEEDSB shall be issued under the signature of the Chairperson i.e. Chief Election Coordinator.

22.2.2 The Order on the decision of the CEDSB shall be issued under the signature of the Chairperson of the CEDSB.

22.2.3 The Order on the decision of the Commission shall be issued under the signature of the Chief Election Commissioner.

## **23. Execution**

23.1 The decision of the CEDSB or the DEDSB shall be executed upon the lapse of the appeal period when there is no appeal.

Provided in the case of appeal, the decision of the appellate authority shall be executed.

23.2 The decision of the DEDSB shall be executed by the Chief Election Coordinator.

23.3 The decision on a case forwarded to the CEDSB shall be executed by the Chief Election Coordinator as per the instruction of the CEDSB.

23.4 The Decision on a case appealed from the DEDSB to the CEDSB shall be executed by the Secretary of the Election Commission of Bhutan.

23.5 The decision of the CEDSB on a case registered directly with it shall be executed by the Secretary of the Commission.

23.6 The decision of the Commission on any case shall be executed by the Secretary of the Commission.

## **24. Contempt of Orders**

24.1 An act of refusal by any person, an organization, a Party or a Candidate to an order of the Commission issued under Section 37 of the Election Act shall be deemed as Contempt of Order.

24.2 A person, organization, a Party or a Candidate guilty of an offence under Rules 24.1 shall be dealt as per the Election Act of the Kingdom of Bhutan 2008.

## **25. Last Day of Giving Decisions**

25.1 The CEDSB shall, not later than seven days before a Poll Day, take a final decision on election complaint received by it.

25.2 The DEDSB shall, not later than ten days before a Poll Day, take its final decision on an election complaint received by it or referred to it.



25.3 The Commission shall be responsible to adjustable directly on all election complaints received after the lapse of time provision prescribed under Rules 25.1 and 25.2.

## **26. Dissolution of Election Dispute Settlement Bodies.**

26.1 The Election Dispute Settlement Bodies shall automatically dissolve in the following manner:

26.1.1 The CEDSB six days before the Poll Day; and

26.1.2 The DEDSB nine days before the Poll Day.

## **27. Local Government**

27.1 Any election complaint during the Local Government elections shall normally be made to the Chief Election Coordinator, however, any complaint related to the Local Government Elections made to the Chief Election Commissioner must be forthwith sent to the concerned Chief Election Coordinator.

27.2 The DEDSB shall take the required action within five days of the receipt of a Complaint.

27.3 The procedure for investigation, decision and appeal shall be as per the procedures laid down under these Rules and the Election Dispute Settlement Manual.

27.4 The DEDSB shall forward the case to the CEDSB, if in its opinion a grave offence has been committed by a Candidate.

## **28. Investigation Findings from Government Agencies**

28.1 The Commission shall, if it receives report or decision from any other agency of the Government under the laws on cases likely to adversely question the integrity or adversely affect results of an election, direct the CEDSB to take action as deemed appropriate.

## 29. Penalties

29.1 The Commission, or the CEDSB or DEEDSB may, if it finds there is reasonable ground to believe that a Political Party or Candidate or Representative of the Political Party or a person has violated any provisions of the Electoral Laws, Rules and Regulations, Orders and any other Notifications of the Commission for the first time, subject to Rules 29.4, resort to:

29.1.1 Issue warning and impose a fine of the minimum wage for thirty days to any person not covered by Rules 29.1.2 and 29.1.3 below;

29.1.2 Issue warning and impose a fine of the minimum wage for sixty days to a Candidate;

29.1.3 Issue warning and impose a fine of the minimum wage for one hundred fifty days to a Political Party;

29.1.4 Forfeit any property/gift given to influence voters;

29.1.5 Take appropriate administrative action under the relevant laws and notifications; or

29.1.6 Require Royal Bhutan Police to detain a person under Election Security Rules and Regulation if a person causes threat to the conduct of peaceful election.

**29.1.7 Detention by DEEDSB shall be only up to 5 days. Detention beyond up to 10 days shall only be granted by the CEDSB and beyond 10 days shall only be granted by the Commission.**

29.2 The Commission or the CEDSB shall, if it finds that a Political Party or Candidate or Representative of the Political Party or a person has violated any provisions of the Electoral laws, Rules and Regulations, Orders and any other Notifications of the Commission for the second time, shall:

29.2.1 Issue restraining order;

29.2.2 Cancel the nomination of the candidature;

29.2.3 Nullify the election results;

29.2.4 Require Royal Bhutan Police to detain a person under Election Security Rules & Regulations if a person causes threat to the conduct of peaceful election;

29.2.5 Restrain from campaigning for rest of the campaign period; or

29.2.6 Deregister a Political Party.

29.3 The DEDSB may also impose the penalties under Rules 29.1, and 29.2.1 for the offence of violation in the cases investigated and decided by it.

29.4 The Commission shall, notwithstanding Rule 29.1 and 29.2, if it is of the opinion that a grave offence has been committed by a Candidate or Political Party or any other person, deal with the matter at the first instance in accordance with the Electoral Laws.

**29.5 The Commission shall refer any person who has committed a criminal offence relating to an election to the appropriate state agency for prosecution. The offences referred in the Election Act are as provided in the Penal Code of Bhutan.**

### **30. Election Petition**

30.1 Any election petition under the Electoral Laws shall be filed within the Petition Period before:

30.1.1 The High Court, if it pertains to Parliamentary election; or

30.1.2 The concerned Dzongkhag Court if it pertains to the Local Government elections.

30.1.3 The court trying the election petition may direct the election officials appointed by the Commission to be joined as respondent where the Court is of the view that the joining of respondent is necessary for proper adjudication of any issue raised in the petition, and it shall be the responsibility of all Election Officials to give testimony regarding that particular election to the Court

### **31. Code of Conduct**

31.1 A Member of an Election Dispute Settlement Body or an Investigation Committee shall declare any conflict of interest related to an election dispute and it is affirmed

to have conflict of interest pertaining to a case, he/she will not participate in the investigate and/or any proceedings of that case

31.2 A Member of an Election Dispute Settlement Body or an Investigate Committee shall abide by the Election Code of Conduct.

## **32. Complaints and Petitions during Non-Election Period**

32.1 Any complaints received during the non-election period shall be addressed to the Chief Election Commissioner.

32.2 The Commission shall, on receipt of the complaints, appoint an Investigation Committee to take action as per the Electoral Laws.

Notwithstanding Rules 32.1 and 32.2, the Commission shall not entertain any complaints related to a particular election during the Non-Election Period.

## **33. Power of the Commission.**

33.1 The Commission shall have the authority to issue instructions and directions:

33.1.1 For the clarification of any of the provisions of these Rules and Regulations;

33.1.2 For the removal of any difficulty which may arise in relation to the implementation of any such provisions; and

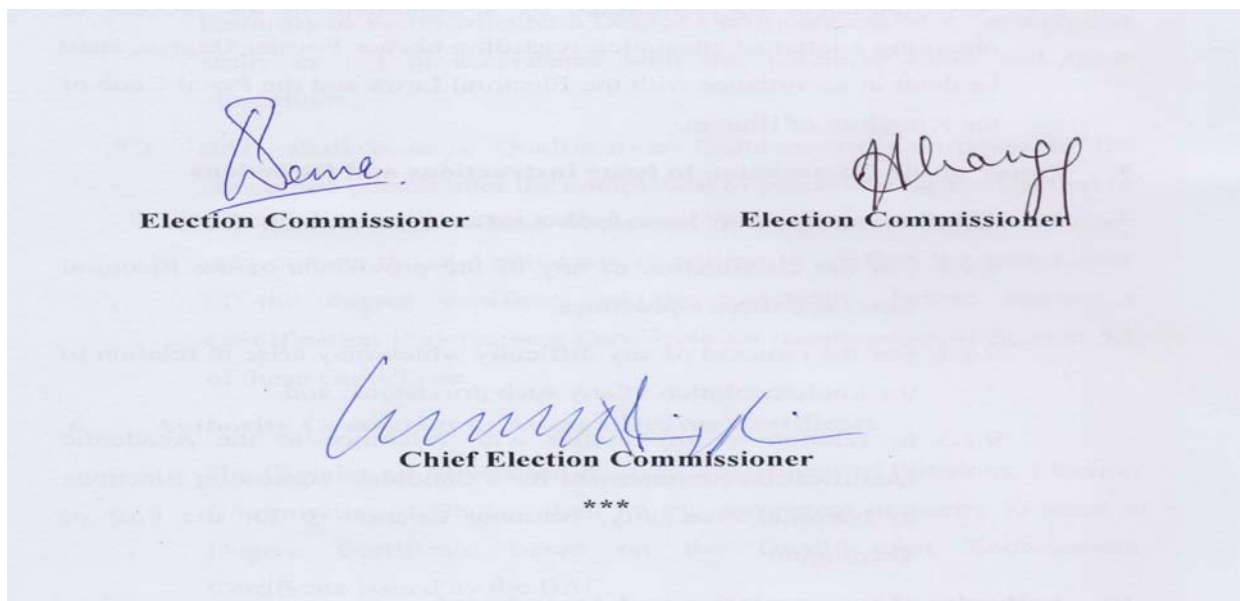
33.1.3 In relation to any matter with respect to adjudication and settling of disputes for which these Rules make insufficient provision and clarification is necessary in the opinion of the Commission.

## **34. Authority of Interpretation and Amendment**

34.1 The Commission shall, in case of difference in meaning, be the final authority on interpretation of these Rules.

34.2 The Commission may amend by way of addition, variation, or repeal the provisions of these Rules.

Done under the seal of the Election Commission of the Kingdom of Bhutan on this 15<sup>th</sup> of February 2018 corresponding to the 30<sup>th</sup> Day of the 12<sup>th</sup> Month of the Fire Female Bird Year in the Bhutanese Calendar.





**Election Complaint Form**

To

Chief Election Commissioner

Election Commission of Bhutan

Thimphu

Or

Chief Election Coordinator/National Observer/Returning Officer

.....*Demkhong*

.....*Dzongkhag*

I, Mr./Mrs....., bearing Voter Photo Identity Card (VPIC)/  
Citizenship Identity Card number.....  
Of..... (permanent address) would like to lodge, under Rule  
9 of the Election Dispute Settlement Rules and Regulation 2018, a complaint related to  
the.....elections in .....  
*Gewog/Thromde of ..... Dzongkhag.*

The details of the complaint are as follows:

- 1. Case of controversy

2. The legal provisions of the Electoral Laws which has been/ is being breached and is the ground of the complaint

3. All material facts of the case (e.g. place, date, time, identification and details of witness cause of action, documentary and/ or other physical evidence etc.); and

4. Name of the parties/ Candidates/ Individuals against whom the complaint is filed.

I hereby, in testimony of the above and in full knowledge that appropriate action can be taken under the Election Act of the Kingdom of Bhutan 2008, put my signature here-below:

..... **Affix legal Stamp**

*(Name of Complainant)*

*(Present Residential/Work Address and Telephone Number)*

*This must be signed by the complainant with proper address and contact details*

Date :.....



*(Name and Designation of Receiver)*

Election Complaint Receiving Authority

Date of Receipt: .....

Handed over to the:

Chief Election Coordinator/Chief Election Commissioner on date:

.....



**Show Cause Notice**

Date: .....

To  
.....  
.....*Demkhong*  
.....*Dzongkhag*

Subject: Show Cause Notice

A complaint has been filed against you that on.....  
..... you have  
.....

.....which is an electoral offence within the meaning of  
Section.....of the Election Act of the Kingdom of Bhutan, 2008.

You are, therefore required to provide justification as to why legal action should not be taken  
against you within the meaning of the above Section of the Election Act within three days of  
the receipt of this letter i.e .....

Should you fail to give an explanation within the above date, it shall be deemed that you have  
no reasonable explanation to offer and as such, the Central/Dzongkhag Election Dispute  
Settlement Body/ Election Commission shall proceed to take such action as deemed necessary  
and appropriate.

( )  
Chairperson DEDSB/CEDSB/ECB



**Election Dispute Settlement Form No. 3**

**Election Case Register**

.....Dzongkhag

.....Election

<b>Cash Details</b>	<b>ISSUE</b>	<b>REMARKS/STATUS</b>
Case No.: Complainant: Defendant : Complaint lodged with: On: Complaint Received by DEDSB/CEDSBon: Investigation Committee:  1. .... 2. .... 3. .... 4. ....		



## **Content of Investigation Report**

The report should:

Mention how the complaint was received stating when the complaint was made, to whom and the alleged violation of law;

Answer these questions about the case: who, what, when, where, why, how, and how much.

State the allegations in the proper format (who did what in violation of which provision of Electoral Laws and when).

State the facts clearly, accurately and completely.

Explain the Electoral Laws and apply them to the facts.

Include mitigating and aggravating circumstances and facts that do not support your conclusions to ensure you tell the “whole” story, not just one side.

The report should:

List the interview on the case and/ or documents or evidence that you have reviewed or collected in the report and include all enclosures or attachments.

Provide Election Dispute Settlement Body members that true and factual information they need to reach a sound and fair decision.

The report should:

Address the complaint lodged with the Election Dispute Settlement Body.

Discuss all significant evidences and information related to the case.

Thoroughly discuss and analyze the rules and regulations and how they apply to the facts.

State how the findings are proving or disproving the complaint.

Suggest what action should be taken or not.

At the hearings, present the facts of the matter as at 3(a) (b) and (c) above but do not present the recommendation at 3 (e) or the conclusion in 3 (d).



**Notice of Hearing**

Date:.....

To

.....Party/Candidate/ Individual  
.....*Demkhong*  
.....Dzongkha

Subject: Notice of Hearing under Rule 14.2 of the Election Dispute Settlement Rules and Regulations

Dear Sir/ Madam,

This letter is being served as the Notice of Hearing from the Central/Dzongkhag Election Dispute Settlement Body/ ECB under rule 14.2 of EDSRR on the complaint lodged by/against you in the  
.....elections.

The hearing will be held on ....., at..... a.m./p.m.,  
at.....

If you are not able to attend the Hearing in person you have the right to appoint a representative authorized as in Election Complaint Form No.:6. Your representative shall have the right to ask questions or clarify or submit new evidences, and/ or view the evidence.

In case you fail to attend the hearing or appoint a representative for the hearing your right shall be deemed to be waived off and the hearing shall proceed a scheduled.

( )  
Chairperson DEDSB/CEDSB/ECB

Upon delivery, a copy should be signed as follows and retained in the Case File:

Received by:  
.....(Name & Signature)  
.....(Date)



**Representative Authorization Letter**

To  
The Chairperson  
Dzongkhag Election Dispute Settlement Body  
.....Dzongkhag Or  
CEDSB/ECB  
Thimphu

Dear Sir/Madam,

I..... bearing VPIC No. ....  
from..... *Demkhong*.....Dzongkhag, the  
Party President/Candidate/Others hereby authorize ..... VPIC  
No:.....to represent Party/Me at (all) the hearing (s) conducted by the  
DEDSB/CEDSB/ECB in relation to the election dispute filed  
by.....against ..... on.....

I authorize my representative to act on the Party's/ my behalf with full power and authority,  
including to submit new evidence, view evidence ask questions, answer and/or clarify doubts  
on my behalf during the entire proceedings.

I hereby undertake to abide by all and any submission made by the representative and shall be  
held fully accountable for any decision or submission made by him/her on the Party's/ my  
behalf with regard to the case mentioned above.

For authentication, I have attested below the Signed Undertaking by the authorized Person.

**UNDERTAKING**

I,.....bearing VPIC No.....of  
.....*Demkhong*.....  
Dzongkhag hereby undertake to be the authorized representative of .....  
Party/Candidate/Other and represent the Party/him/her at the hearing related the Election  
Dispute filed by ..... against.....on.....

This authorization letter is valid from the issuance date till the decision of the case is issued.

Signature of Authorised Representative

Date: .....

Name and signature of the person giving the authorization letter:

.....

Date: .....





## Sitting Arrangement for Hearing

**Chairperson**

Investigation Committee  
Members

Members of EDSB

Complainant & Defendant



**Decision Format on Election Dispute (DEDSB)**

སྤྱི་ཚེས་.....

༣ ད་ལན་ཤིག་གི་འདུ་འཚོའི་སྤྱི་ཚེས་..... རྒྱུ་ལྡན་པའི་འདུ་འཚོའི་སྤྱི་ཚེས་.....  
ཐབས་ལམ་སྤེལ་སྤྱི་ཚེས་..... ལུ་ བཅར་ལུགས་འབད་ ཡོད་པའི་འདུ་འཚོའི་སྤྱི་ཚེས་ཨང་.....  
..... ཚན་ལ།

༡. རོ་སྤོད།

ཚོད་ཅ།

ཚོད་ཟ།

༡. རོ་སྤོད་..... རོ་སྤོད་

རོ་སྤོད་..... རོ་སྤོད་

ཚོགས་རྒྱུན་སྐྱུར་མི་རོ་སྤོད་འཛིན་འདྲ་པར་ཨང་

ཚོགས་རྒྱུན་སྐྱུར་མི་རོ་སྤོད་འཛིན་འདྲ་པར་ཨང་

.....

.....

གཤེད་འོག་.....

གཤེད་འོག་.....

ཚོད་ལག་.....

ཚོད་ལག་.....

༡ ཚོད་རྩོད་གསལ་ངོ་རྒྱུད།

..... རྫོང་ཁག་..... མེད་འོག་.....

..... ཚོགས་ཚུ་..... གིས་ ཚོད་ལྷ་..... ལུ་ ལྷོ་ལོ་

..... ལྷོ་ལྷ་..... པའི་ལྷོ་ཚེས་..... ལུ་

..... (གནད་གོན)

༢. ཚོད་ཚུ་གིས་སུལ་བའི་རྩོད་གསལ་བཤད་ལུ་ཡི་

༣. དག་བརྗོད་དང་ ལྷོ་བ་བྱེད་ཀྱི་ཡིག་ཆ་གཞན་ཚུ།

༤. ཚོད་ལྷོ་གིས་ ལྷོ་ཚེས་..... ལུ་ འགོ་འདྲེན་འཐབ་པའི་སྟེན་གསན་སྐབས་..... རྫོང་ཁག་བཙག་  
འཇུག་ཚོད་རྩོད་གསལ་སེལ་ཐབས་ལས་སྡེ་ལུ་ སུལ་འོད་པའི་དག་བརྗོད་ཐོག་ལུ་ བ་སུལ་ཡོད་མི་ནང་གསལ་

༥. བཤེར་བཅུད།

༦. ལྷོ་ཚེས།

བཀའ་རྒྱ

ཇི་ལྟར་ གྲོས་ཚུན་སྟོན་པའི་ཉིན་གངས་ལྷ་གི་ནང་འཁོད་ ཁེ་རྒྱུད་མ་བུ་བཟུང་མི་ཅིག་གིས་ འཕྲུག་གི་བཙག་འཕྲུའི་ཚུན་  
 རྟོགས་སེལ་ཐབས་ལས་སྡེ་བཙའ་སྡེ་བཙའ་ཡིག་དང་སྒྲིགས་གཞི་༢༠༡༩ ཚན་མའི་དོན་ ༡༡.༡ དང་འབྲེལ་ བཙག་འཕྲུའི་  
 ཚུན་རྟོགས་སེལ་ཐབས་ལས་སྡེ་ལྟེ་བ་ལུ་ མཐོ་ གཏུགས་ ལྷ་ཚོགས། གལ་སྲིད་ མཐོ་གཏུགས་མེད་དེ་འབད་བ་ཅིན་ གོང་  
 འཁོད་བཙའ་ཡིག་གི་དོན་ཚན་ ༡༣.༣ དང་འབྲེལ་ འབྲེལ་ཡོད་མི་ངོམ་རྩུ་ལུ་ གྲོས་ཚུན་འདི་བསྟར་སྤྱད་འབད་དགོ་པའི་  
 བཀའ་རྒྱ་ རང་ལུགས་གནམ་ལོ་.....ལོ་ ཟླ་.....པའི་ཚེས་.....ལུ་འཇམ་ སྤྱི་ལོ་.....  
 .....སྤྱི་ཟླ་.....པའི་ཚེས་.....ལུ།

(མིང་.....)  
 འཕྲུས་མི།

(མིང་.....)  
 འཕྲུས་མི།

(མིང་.....)  
 འཕྲུས་མི།

(མིང་.....)  
 འཕྲུས་མི།

(མིང་.....)

ཁྱིམ་འཛིན།

རྫོང་ཁག་བཙག་འཕྲུའི་ཚུན་རྟོགས་སེལ་ཐབས་ལས་སྡེ།



**Acknowledgement of Decision of the DEDSB/CEDSB/Commission**

I,.....holder of VPIC No: .....  
of.....village,..... Gewog  
,.....Dzongkhag acknowledge that I have received a copy of the decision  
of the DEDSB/CEDSB/Commission.

Signature (Thumb impression of the receiver)

.....

Date:.....

Note: To be collected by the concerned Gewog Administrative Officer and return to the concerned Election Dispute Settlement Body.



**DECLARATION OF CONFLICT OF INTEREST  
BY ELECTION DISPUTE SETTLEMENT BODY MEMBERS**

Case No: \_\_\_\_\_

Date: \_\_\_\_\_

Name of Complainant: \_\_\_\_\_

Name of Accused(s): \_\_\_\_\_

Brief description of complaint

Do you have any conflict of interests with the above case? (tick one)

Yes

No

Describe nature of conflict of interests

I have read and understood the conflict of interest provision enshrined in the Election Act of the Kingdom of Bhutan 2008 and stand by the above declaration.

Signature of Member: \_\_\_\_\_

Date: \_\_\_\_\_

Chairperson  
(CEDSB/DEDSB)



**Seizure List – General Items**

(In the exercise of the power conferred under section 37 of the Election Act of the Kingdom of Bhutan read along with sections 180 and 181 of the Civil and Criminal Procedure code of Bhutan 2001)

-----  
Case No.                      Place

-----  
Date                      Time                      -----Search order (tick one): Yes/No  
Search order ref: \_\_\_\_\_

Articles seized from:      Mr./Mrs./Ms.      -----  
-----

Details of Articles seized:

Sl.

No.	Description of articles	Quantity	Remarks
-----	-----	-----	-----
-----	-----	-----	-----
-----	-----	-----	-----
-----	-----	-----	-----
-----	-----	-----	-----
-----	-----	-----	-----
-----	-----	-----	-----

Name & Sig. of person from whom seized:  
Name: \_\_\_\_\_

Name & Sig. of officer conducting seize:  
Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Name & Sig. of witnesses:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



**Seizure List – Computer Based Items (Hardware)**

(In the exercise of the power conferred under section 37 of the Election Act of the Kingdom of Bhutan read along with sections 180 and 181 of the Civil and Criminal Procedure code of Bhutan 2001)

-----  
Case No.                      Place

-----                      ----- Search order (tick one): Yes/No  
Date Time                      Search order ref: \_\_\_\_\_

Articles seized from:      Mr./Mrs./Ms.      -----

**Details of Articles seized:**

Sl. No.	Items ( <i>Desktops, Storage devices/Media, etc.</i> )	Manufacturer	Model	Serial No.	Condition ( <i>Good/Damaged/Not known</i> )	Remarks ( <i>any information related to the item such as passwords</i> )

Name & Sig. of person from whom seized:  
Name: \_\_\_\_\_

Name & Sig. of officer conducting seize:  
Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Name & Sig. of witnesses:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_





**Seizure List – Computer Based Items (Software)**

(In the exercise of the power conferred under section 37 of the Election Act of the Kingdom of Bhutan read along with sections 180 and 181 of the Civil and Criminal Procedure code of Bhutan 2001)

-----  
Case No.                                  Place

----- Search order (tick one): Yes/No  
Date Time    Search order ref: \_\_\_\_\_

E-mails seized from:    Mr./Mrs./Ms.    -----

Details of E-mails seized:

Email address	Password	No. of mails (standard folders)				
		Inbox	Sent	Draft	Trash	Spam

**Note: Attach a screenshot of the Inbox**

Name & Sig. of person from whom seized:  
Name: \_\_\_\_\_

Name & Sig. of officer conducting seize:  
Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Witnesses: \_\_\_\_\_