

འབྲུག་གི་མི་དམངས་བཅོམ་འབྲུའི་མ་དངུལ་བཅའ་ཁྲིམས་

༢༠༠༨ ཚན་མ།



**Public Election Fund Act of the
Kingdom of Bhutan, 2008**

མཚན་བརྗོད།

༡ ཡེ་ནས་རྣམ་དག་ཡེ་ཤེས་ཚེས་སྐྱེ་དང་། མཚན་དཔེ་ཡོངས་ཚོགས་ལོངས་སྤྱོད་ཚོགས་པའི་སྐྱེ།
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ཁ་བཞི་ལྗོངས་འདིར་ལྷ་སྐལ་མཐུ་ཆེན་ཞབས། ཡུལ་འདིར་ཡུང་གིས་མངགས་བཞིན་མཛད་པའི་མཐའ།
ནམ་ཡང་མི་བརྗོད་འབྲུག་མི་མགིན་གཅིག་གིས། སྐྱེ་དྲིན་བསམ་ལས་འདས་པའི་དད་ལྷག་བརྟེན།
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PUBLIC ELECTION FUND ACT OF THE KINGDOM OF BHUTAN, 2008

PREAMBLE

Whereas, pursuant to Article 16 of the Constitution of the Kingdom of Bhutan 2008, the elections to Parliament shall be State financed and funds disbursed in a non-discriminatory manner, and in keeping with Section 16 of Article 22 and Section 7 of Article 23 to regulate these and any other expenditure related to election campaign;

Parliament of the Kingdom of Bhutan during its 1st Session do hereby enact the Public Election Fund Act of the Kingdom of Bhutan on this 26th Day of the Second 5th Month of the Earth Male Rat Year corresponding to the 28th Day of the 7th Month of the Year 2008.

CHAPTER 1

PRELIMINARY

Short Title, Extent and Commencement

1. This Act shall:
 - (a) Be known as the Public Election Fund Act of the Kingdom of Bhutan, 2008;
 - (b) Extend to the whole of the Kingdom of Bhutan; and
 - (c) Come into force on the 11th Day of 6th Month of the Earth Male Rat Year corresponding to 12th Day of 8th Month of 2008.

Definition

2. In this Act, unless the context otherwise requires:
 - (a) “Act” means the Public Election Fund Act of the Kingdom of Bhutan;

- (b) “Base Amount” means the amount of funds disbursed by the Election Commission to a political party for the Primary Round or candidate in the case of General Elections to National Assembly and National Council elections.
- (c) “Contribution” means a monetary payment made by a registered member of a political party;
- (d) “Division” means the Public Election Fund Division established under section 10 of Chapter 2 of this Act;
- (e) “Election Act” means the Election Act of the Kingdom of Bhutan, 2008;
- (f) “Election Commission” means the Election Commission of Bhutan;
- (g) “Election Expenses” means expenses incurred or authorized on account of or in respect of the election campaign from the date of issue of announcement of election by the Election Commission till the date of declaration of result;

- (h) “Fair Market Value” means fair, just, economic, and equitable value under normal market conditions and based upon the value of items of similar description, age and condition;
- (i) “Fund” means the election campaign fund disbursed by the Election Commission;
- (j) “General Election” means the election in which the candidates of two registered political parties securing the highest number and the next highest number of total valid votes cast in the Primary Round throughout the Kingdom are declared eligible to participate and contest for National Assembly seats;
- (k) “Harassment” means an act done to annoy a person and not serving any legitimate purpose;
- (l) “Itemized” means that each contribution received or expenditure made is set forth separately;
- (m) “In Kind Contribution” means a contribution of goods or services or anything of value and not a monetary contribution made by a registered member of a political party;

- (n) “Party” means a political party registered with the Election Commission;
- (o) “Primary Round” means an election to the National Assembly where all registered political parties shall be eligible to participate and contest;
- (p) “Qualified Candidate” means any individual whose nomination has been duly accepted by the Election Commission; and
- (q) Words importing the singular number shall include the plural number and vice-versa, unless the context otherwise requires.

CHAPTER 2

PUBLIC ELECTION FUND

3. There shall be a Public Election Fund into which shall be paid every year such amount as the Election Commission may consider appropriate for funding registered political parties and candidates at elections to Parliament.
4. The candidates to the Local Governments shall not receive election campaign funds from the Election Commission.

Purpose

5. The purpose of the Public Election Fund, through non-discriminatory state financing of elections to Parliament, is to:
 - (a) Ensure equal and wide participation of all interested and qualified candidates and registered political parties;

- (b) Curb undue influence of money power on elections and to prevent the unregulated flow of funds from questionable sources into political contests; and
- (c) Ensure clean, free and fair elections and National Referendums.

Management

- 6. The Election Commission shall be responsible for the overall management of the Fund.

Authority to Fix the Maximum Spending Limits

- 7. The Election Commission shall fix the maximum spending limits for political parties and candidates in an election to Parliament and Local Governments from time to time.

Fund Provision

- 8. The Election Commission shall submit to Parliament an annual estimate of fund required for financing of election campaigns.

9. Parliament shall endorse and pass the amount recommended by the Election Commission under section 8 in the same session of Parliament without any change in the amount estimated.

Establishment of the Division

10. The Election Commission shall, within its Secretariat, establish a Public Election Fund Division with responsibility for:
 - (a) Maintaining, disbursing, monitoring and scrutiny of all election campaign expenses in relation to Parliamentary elections;
 - (b) Monitoring all election campaign expenses in relation to Local Government elections; and
 - (c) Monitoring the accounts of the Political Parties as provided for in this Act.

Functions of the Division

11. The Division shall report on all matters relating to Public Election Fund and take necessary approval of the Election Commission.

12. The Division shall notify, upon announcement of elections by the Election Commission, the amount a party or candidate contesting in an election may receive from the Fund.
13. The Division shall, in carrying out its functions, consider all relevant facts and circumstances and be bound by the election formalities as envisaged in the Election Act.
14. The Division shall:
 - (a) Verify all documents submitted to the Election Commission under the provisions of this Act;
 - (b) Prepare and publish instructions setting forth methods of book keeping and preservation of records to facilitate compliance with this Act;
 - (c) Produce yearly reports describing the Division's activity and any recommendation for changes in law, administration or funding amounts and accounting for money in the Fund;

- (d) Monitor return of election expenses and financial records of candidates and parties submitted in pursuance of the provisions of this Act; and
- (e) Enforce the provisions of this Act.

CHAPTER 3

ELIGIBILITY CRITERIA

Eligibility Criteria for Funding of National Council Candidates

15. A candidate to the National Council shall be eligible to receive the base amount from the Fund, during the National Council elections, if his/her nomination has been duly accepted.
16. Every Gewog and Dzongkhag Thromde, which is not part of a Gewog, shall be entitled to nominate one candidate to the National Council elections.
17. A candidate nominated to contest National Council elections after the first elections conducted under the Constitution of the Kingdom of Bhutan shall receive an amount equal to the base amount to be received by eligible candidates or as may be fixed by the Election Commission from time to time.
18. The application for Fund shall be accompanied with the copy of the letter of acceptance as a candidate in accordance with the Election Act.

Eligibility Criteria for Funding of Political Parties

19. A party shall be eligible for the Fund, during the National Assembly elections, if it has been registered for contesting the Primary Round of elections to the National Assembly in all twenty Dzongkhags.
20. A party shall be eligible for the Fund, if it had secured at least 10 percent of the valid votes cast in the previous Primary Round for the National Assembly elections.
21. A party intending to contest National Assembly elections for the first time shall receive an amount equal to the base amount to be received by eligible political parties.
22. The application for Fund shall be accompanied with the copy of the Certificate of Registration as a political party issued by the Election Commission and the Letter of Intent stating its intention to participate in the elections to the National Assembly in accordance with the Election Act.

Eligibility Criteria for Funding of National Assembly Candidates

23. A candidate to the National Assembly shall be eligible to receive an amount equal to the base amount to be received by eligible candidates, during the General Elections, if his/her nomination has been duly accepted and is so certified by the Election Commission.

Replacement Candidates

24. A candidate who shall be a replacement of another candidate in accordance with the Election Act upon the death of a candidate or disqualification, cancellation or withdrawal of a candidature before the General Election or elections to the National Council must comply with all the provisions of this Act and Rules and Regulations made thereunder.
25. The Election Commission shall give a written notice to the bank concerned blocking the campaign account of candidate who has been disqualified, or whose candidature has been cancelled, or has withdrawn his/her candidature, or has died, before the General Election or elections to the National Council.

Provided that in the case of disqualification or cancellation the Commission shall direct the forfeiture and demand the refund of the entire amount disbursed to the candidate.

26. The replacement candidate shall submit an application for funding at the time of filing his/her nomination.
27. The Division shall disburse funds to the replacement candidate only upon acceptance of his/her nomination by the Election Commission.
28. The campaign account of the candidate replaced under section 24 shall be transferred to the replacement candidate if the fund has already been disbursed to the candidate, and the replacement candidate shall be eligible to receive additional funds to the extent of shortfall between the total entitlement of the fund for a candidate and the amount of fund transferred to him/her from the replaced candidate.

Provided failure to submit the funding application under section 26 shall result in the liquidation of the account and return of the money to the Fund.

Violation of Eligibility Criteria

29. The Election Commission shall have authority to direct the forfeiture and demand the refund of the amount disbursed to the party or the candidate if a party or candidate violates any condition of eligibility for the Fund.

Funding of National Referendum

30. The Election Commission shall provide fund for incurring expenses related to the conduct of National Referendum in accordance with the National Referendum Act.

CHAPTER 4

FUND DISTRIBUTION

Estimate of Funds

31. The Division shall determine and publish an estimate of the Funds available for distribution to parties and candidates at elections to Parliament not later than ninety days, before the date of expiration of duration of that Parliament.

Time of Distribution

32. The Division shall disburse the eligible amount to the campaign account of the political party and contesting candidate not later than 3 working days from the date of receipt of the valid funding application.
33. The Division shall ensure transparent reporting and disclosure of expenditure and disbursement of fund provided to every registered party or candidate as prescribed in this Act.

Surplus Campaign Funds

34. A party shall file its election return within thirty days of the declaration of results of the Primary Round of elections and a candidate shall file his/her election return within thirty days of declaration of results of the General Election to the Division.
35. A candidate to Local Government Elections shall file his/her election return within thirty days of the declaration of results to the Division.
36. A National Council candidate shall file his/her election return within thirty days of the declaration of results of the election to the Division.
37. The Division shall make election returns of parties and candidates available for public inspection.

38. The unspent amount out of the campaign funds provided to the political parties for the Primary Round by the Election Commission, upon completion of the Primary Round shall be retained for use in the General Elections, provided proper documentation is maintained in the election return under section 113, while the parties ineligible to contest the General Election shall refund the unspent amount to the Division.
39. The unspent amount out of the campaign funds provided to the candidates to the National Council shall be refunded to the Division.

Refusal to Disburse Funds

40. The Election Commission may refuse to disburse funds to a party or a candidate if a case of fraud or illegal activity committed by the party or candidate is detected.

Provided that where the funds have already been disbursed to a party or candidate the Election Commission may direct the forfeiture and demand the refund of the Fund.

Prohibition on Fund Raising

41. No political party or a candidate shall solicit or resort to any form of fund raising for campaigning in an election to Parliament and Local Governments from private individuals or any agency.

Provided a party may accept financial contributions and in kind contributions from its registered members as per limits fixed by the Election Commission from time to time.

42. Any party member or candidate guilty of violation of section 41 shall be dealt in accordance with the Election Act and if any political party is found involved, that party shall be dissolved by order of the Supreme Court.

CHAPTER 5

ACCOUNTS

Campaign Accounts

43. A party and candidate shall open separate campaign account in the bank notified by the Election Commission to be called the party campaign account and the candidate campaign account respectively.
44. The details of the separate campaign account must be intimated to the Division within 5 working days of such opening of accounts.
45. A party or candidate shall conduct all financial activity through a single campaign account.
46. No party or candidate shall make any deposit in the campaign account except the contributions received from its registered members and the funds received by candidates under section 57 of this Act respectively.

Mode of Spending

47. The treasurer of the party shall have authority to withdraw funds from the party's campaign account.

48. A candidate may designate any other person with authority to withdraw funds from the candidate's campaign account.
49. The party or candidate or a person authorized under sections 47 and 48 shall pay money from the campaign account directly to the person providing goods and services for the campaign.
50. No party or candidate shall spend out of the campaign account for any purpose that is not related to the election campaign.
51. No fresh expenses from the campaign account shall be incurred by the party or candidate 48 hours before the day of poll except the expenditures specified under section 77 (l) and (m).
52. No expenses shall be incurred on real or personal property that can be retained for more than 30 days after an election.
53. All expenditures shall be made by cheque except an expenditure not exceeding Ngultrum 10,000/- which may be made by cash.

CHAPTER 6

FUNDING LIMIT

Maximum Limits of Funds Disbursed

54. The Election Commission shall, disburse funds to a party for the Primary Round which shall be calculated at an amount equal to or less than Ngultrum 100,000/- per constituency or as may be fixed by the Election Commission from time to time and having regard to the provisions of sections 19 to 23 and the total number of constituencies.
55. A candidate in each constituency for the purposes of General Elections and National Council elections shall be eligible to receive an amount equal to or less than Ngultrum 100,000/- or as may be fixed by the Election Commission from time to time.

Maximum Limits of Expenses

56. Each party, in addition to the base amount received from the Fund, can incur expenditure from its own funds for elections in the Primary Round and General Elections, up to an amount not exceeding the fund provided by the Election Commission.

57. Each candidate, in addition to the base amount received from the Fund, can incur expenditure from funds received from his/her party for elections to the General Election up to an amount not exceeding the fund provided by the Election Commission.
58. Expenditure incurred or authorized by a candidate contesting in elections to National Council shall, subject to any orders of the Election Commission under section 7, be limited to a maximum amount of Ngultrum 100,000/- or as may be fixed by the Election Commission from time to time.
59. Expenditure incurred or authorized by a candidate contesting election to Local Government shall, subject to any orders of the Election Commission under section 7, be limited to a maximum amount of Ngultrum 50,000/- or as may be fixed by the Election Commission from time to time.

60. Any person or Party or candidate found guilty of violation of sections 56, 57 and 58 shall be liable to pay a fine into the Fund of an amount equal to but not exceeding the amount given to the candidate, notwithstanding any other action that may be taken under the Election Act of the Kingdom of Bhutan 2008.
61. Every candidate and party shall maintain, in the prescribed forms, day to day accounts of all contributions received and expenses incurred or authorized in relation to campaign from the date of announcement of elections till the declaration of results.
62. The sum disbursed under sections 54 and 55 shall be subject to revision from time to time by the Election Commission, as it may deem appropriate.
63. No person shall incur or authorize any election expenses for or on behalf of any candidate or party, unless the person has been authorized in writing in this behalf by the candidate or his/her election representative or by the party concerned or its election representative.

64. Any person contravening the provisions of section 63 shall be guilty of the offence of petty misdemeanor.

CHAPTER 7

CONTRIBUTIONS

Contributions from Registered Members

65. No political party shall accept financial contributions or in kind contributions, other than those voluntarily offered to it by any of its registered members, of an amount or value exceeding Ngultrum 100,000/- per member per year or as may be fixed by the Election Commission from time to time.

Provided that no individual or organization, during an election period, shall sponsor meals, entertainment, donations or activity of any kind which may benefit or damage the electoral prospects of any party or candidate.

66. A party shall at the time of submitting its funding application also submit a list of names of registered members with the precise amount of contribution of any kind received from each of them.
67. Any further financial contribution or in kind contribution received after submission of the contribution list under section 66 shall, be submitted along with the election returns to the Division.

68. A party shall not receive financial contribution or in kind contributions from its registered members in excess of the maximum expenditure amount stipulated by the Election Commission from time to time under this Act.
69. Any party found guilty of violation of section 68 of this Act shall not be eligible to receive funds and be liable to pay a fine equal to the amount of the contribution received in excess of the maximum amount stipulated under this Act, notwithstanding any other action that may be taken under the Election Act of the Kingdom of Bhutan 2008.
70. Any act which is established to be a favour, political or otherwise, given to any registered member in return of the contribution made under sections 65 and 67 shall be an offence under the Election Act.
71. No person or organization shall receive any contribution from any member of the party or on behalf of any political party, unless the person has been authorized in writing for this purpose by the concerned party.

72. Any person contravening the provisions of section 71 shall be guilty of the offence of felony of fourth degree.

Declaration of Contribution

73. All contributions made under sections 65 and 67 except in kind contribution shall be made by cheques and all such contributions—shall be declared by the party as the case may be, before the Division.
74. On making declaration under section 73 a party shall incorporate the value of the in kind contribution after working out its valuation as per fair market value.
75. Tax exemption shall be allowed on contributions made by registered members to political parties up to a limit of 5% of the member's total adjusted gross income.

Verifying Registered Members

76. The party shall be responsible to establish that its members making contributions are voters registered in an Electoral Roll.

CHAPTER 8

USE OF CAMPAIGN FUNDS

Permissible Expenses

77. The Fund, and the Party's own Funds in case of Primary Round and General Elections, shall be limited to financing and reimbursement for election campaigns expenses incurred by parties and candidates for the purposes as indicated hereunder:
- (a) Rental of campaign office spaces;
 - (b) Utility bills, like water, telephone and electricity bills;
 - (c) Goods and services for direct campaign purpose only;
 - (d) Hire and rent of office automation equipments during elections;
 - (e) Stationery;
 - (f) Rent for facilities for a specific campaign-related event;
 - (g) Communication expenses;
 - (h) Production of manifesto;
 - (i) Canvassing and election rallies;

- (j) Hire of motor vehicles for campaign purposes;
- (k) Display after obtaining permit from the Election Commission the party name, symbols, logo, poster or flags on vehicles;
- (l) Daily Subsistence Allowance for candidates and duly appointed representatives of the political parties and candidates; and
- (m) Any other campaign related expenses as may be specified by the Election Commission from time to time.

Sponsor

78. The Election Commission shall sponsor:

- (a) Public debates for parties and candidates for Parliamentary elections;
- (b) Production of election broadcasts of a value specified by the Commission;
- (c) Brochures and pamphlet for parties and candidates of a value specified by the Commission;

- (d) Production and display of Posters for parties and candidates of the size and of a value specified by the Commission;
 - (e) Media advertisements and postage of a value specified by the Commission; and
 - (f) Campaign Fund management trainings.
79. All participating parties and candidates shall attend the debates sponsored by the Election Commission.

Provided unless specifically exempted by the Election Commission, the non-participating party or candidate shall be ineligible to receive funds and liable to refund the funds received already for that election.

80. A party or candidate may request to be exempted from participating in the public debate organized by the Election Commission by completing the following formality:
- (a) Submitting a written request to the Commission at least one week prior to the scheduled debate; and

(b) Stating the reason justifying its or his/her exemption.

81. The Election Commission may after being satisfied with the justification exempt the participation of such party or candidate from participation in the debate.

Payment of Bills

82. Every party and candidate shall pay all election expenses incurred before the filing of return of election expenses.

CHAPTER 9

SPENDING LIMITS

Authority

83. No expenditure shall be made for or on behalf of a party without the authority of the treasurer or his/her designated representative and in the case of candidate by the person so designated by the candidate.

Prohibited Expenditure

84. The following expenditures by a party or a candidate are prohibited:
- (a) Anything that is in violation of the laws in force in the Kingdom of Bhutan;
 - (b) Purchase of goods to sell for profit;
 - (c) Anything clearly in excess of the fair market value of the services, materials, facilities, or other things of value received in exchange for the satisfaction or repayment of any debts;

- (d) Gift or donations; and
 - (e) Any other expenditure the Election Commission may from time to time deem as prohibited expenditure.
85. The fund used for campaign related expenses as outlined in the guidelines published by the Division shall, subject to section 84, be considered valid campaign expenses.
86. The Election Commission shall have authority to direct the forfeiture and demand the refund of the Fund and impose a fine of an amount equal to the prohibited expenditure if a party or candidate is found guilty of violating sections 77, 79 and 84 of this Act.

Chapter 10

COMPLAINTS

87. Complaints of prohibited expenditure or any other related activity shall be made to the Election Commission.
88. The complaints shall conform to the following:
 - (a) Contain the full name and address of the complainant;
 - (b) Be given in writing; and
 - (c) Be signed by the complainant and duly endorsed by a known witness.
89. All statements made in the complaint shall be subject to the law governing perjury.

Contents of the Complaint

90. The complaint shall:
 - (a) Clearly identify as respondent each person who is alleged to have violated the provision of this Act;
 - (b) Contain a clear recitation of facts which describe the violation of the Act; and

- (c) Be accompanied by documentation supporting the facts alleged.

Provided that any statements not based on personal knowledge must be accompanied by an identification of the source of information.

Action on the Complaint

- 91. The Election Commission shall, if on consideration of the complaint is satisfied that sufficient grounds exist, forward a copy of the complaint to the respondent within ten days of its receipt.
- 92. The respondent shall be given reasonable opportunity to demonstrate within seven days of the receipt of the copy of the complaint why no action should be taken.
- 93. The Election Commission shall, upon holding an inquiry or hearing as deemed appropriate, make every endeavor to decide the complaint within twenty one days of receipt of the reply from the respondent under section 92.

Appeal

94. An appeal shall lie with the Supreme Court, from any order of the Election Commission under section 93, within 10 days of the declaration of the results.
95. The Supreme Court shall, upon holding an inquiry or hearing as deemed appropriate, make every endeavor to decide the appeal within twenty one days of its receipt.

Investigation

96. The Election Commission on finding a reason to believe that a violation of the Act or Rules and Regulations made thereunder has occurred or is about to occur it shall conduct investigation in such cases.
97. The investigation by the Election Commission may include field investigation, audits and other methods of information gathering.

Enforcement Procedure

98. The Election Commission shall, if it has a reason to believe that a violation of the provisions of this Act or Rules and Regulations made thereunder has occurred or is about to occur, notify the respondent of its belief setting forth the legal basis and alleged facts in support of the action.
99. The alleged violator shall provide an explanation to the Election Commission or comply with the order within ten days of its issue.
100. The Election Commission shall, if upon expiration of ten days finds that the alleged violator remains out of compliance, make its finding public and issue an order calling for the forfeiture of the Fund.
101. The Election Commission shall notify both the respondent and the complainant if it finds no reason to believe that a violation of the provisions of this Act or Rules and Regulations made thereunder has occurred or otherwise terminates its proceedings and make such findings public.

102. The party aggrieved may, within 10 days of the declaration of the results of the election, appeal to the Supreme Court from the order of the Commission under section 100 or 101.
103. The Supreme Court shall endeavor to conclude the trial within twenty one days from the date on which the appeal is presented to the Court.

CHAPTER 11

RECORD KEEPING AND REPORTING

Separate Records

104. The political parties and candidates shall maintain, at the office declared at the time of registration, books and records of financial transactions and other information required by law.
105. The treasurers of the political parties and representatives of the candidate shall ensure that books and records of accounts are properly maintained and preserved.
106. The books and records of accounts shall contain:
 - (a) Details of all money received from the Fund by the party and the candidate;
 - (b) Identity of registered members together with the date and amount received from them by the party;
 - (c) Value of any contribution including in kind contribution received together with the name of registered members making such contribution;

- (d) Name and address of every person to whom any payment is made together with the date, amount and purpose for the expenditure; and
 - (e) Bank statements or other statements for the campaign account.
107. Separate accounts shall be maintained by the party and the candidate of funds received by such party and candidate.
108. The records for submission to the Division shall be in the form of itemized bills.
109. The records submitted to the Division must contain the full name and address of the person providing the goods or services and its nature.

Annual Account

110. A party must maintain a correct and up-to-date account and prepare:
- (a) Income and expenditure statements for the financial year; and
 - (b) Balance sheet (Statement of Affairs).
111. Every party shall within three months after the end of each financial year furnish a true copy of the above financial statements to the Division.

112. Any party found guilty of violating section 111 of this Act shall be dealt in accordance with the Election Act and the political party shall not be eligible for funding.

Return of Election Expenses

113. Every party and candidate shall file before the Division, their returns of election expenses in the prescribed forms, exhibiting details of all contributions received by the candidate or party and all expenditure incurred or authorized by them in relation to elections within thirty days of the declaration of results.
114. Any party, candidate or person found guilty of violating section 113 of this Act shall be dealt in accordance with the Election Act and the successful candidate's election will be invalidated.

Public Inspection

115. A copy of the account under sections 110 and 113 shall be made available by the Division for public scrutiny in the prescribed form.

116. The party in the case of Primary Round and candidates in the case of General Elections and National Council or Local Government Elections shall make available for public inspection details of all bank accounts and campaign finance records in the manner and place specified by the Election Commission.
117. Any request to inspect the parties' or candidates' records shall be sent to the treasurer of the political party and in the case of candidates to the person designated by the candidate concerned with a copy to the Election Commission at least ten days before the proposed day of inspection.
118. The treasurer or the person designated by the candidate shall provide such document not later than five working days after receipt of the request made under section 117.
119. The requesting party may, if a request made under section 118 is not complied with, notify the Election Commission.
120. The Election Commission may, on receipt of notice under section 117, enforce the public inspection of record by requisitioning the production of such records or items specified in the request in such time as may be stipulated by the Election Commission.

121. The Election Commission shall not permit public inspection of records if it determines that the inspection is for harassment purposes.

CHAPTER 12

AUDIT

Audit and Examination

122. The Division may conduct an examination and audit of party's and candidate's campaign finances.
123. The Division may examine and audit receipts, disbursements, debts and obligation of each party and candidate and in addition the Division may conduct any other examinations and audits as it deems necessary to carry out the provisions of this Act.

The Royal Audit Authority of Bhutan shall be the external auditor for the Fund and for the annual accounts of the Political Parties.

Fieldwork

124. The Division and the Royal Audit Authority shall provide the party or candidate at least seven days notice of the Division's intention to commence fieldwork on audit and examination.

125. The political party or candidate shall, on the date scheduled for the commencement of the fieldwork, facilitate the examination or audit by making records available at the Election Commission's office or provide the Division and the Royal Audit Authority with office space and records.
126. The treasurer and candidate concerned shall be present at the site of the fieldwork.

Dispute

127. In the course of examination and audit, if any dispute arises, the party or the candidate may seek review by the Division and the Royal Audit Authority on the issues raised.
128. The concerned party or the candidate may, to seek review under section 127, submit a written statement within ten days of the dispute arising, describing the dispute and parties' or candidates' views on the issue.

Preliminary Audit Report

129. The Division and the Royal Audit Authority shall, on completion of the fieldwork, prepare a written preliminary audit report and provide a copy to the treasurer or the candidate concerned after being approved by the Election Commission.

Content of the Preliminary Audit Report

130. The preliminary audit report shall include:

- (a) An evaluation of procedures and system of accounting employed by the party or the candidate;
- (b) Accuracy of statements and campaign finance reports; and
- (c) Preliminary findings.

131. The party or the candidate concerned may submit in writing within ten days of the receipt of the preliminary audit report, legal and factual materials disputing or commenting on the proposed findings contained in the report.

Final Report

132. The Division and the Royal Audit Authority shall consider all legal and factual materials submitted by the party or the candidate.
133. The Division and the Royal Audit Authority shall release the final audit report only with the approval of the Election Commission.

CHAPTER 13
CODE OF CONDUCT

Prohibited Conduct

134. The election officers of the Division shall avoid any action which may create the impression of:
- (a) Using public office for personal gain;
 - (b) Being unduly favorable or unfavorable to any person or party;
 - (c) Impeding the efficiency and economy of the Division;
 - (d) Making decision without the approval of the Election Commission wherever such approval is necessary; or
 - (e) Adversely affecting the confidence of the voters in the integrity of the Division.
135. No official of the Division shall solicit or accept, directly or indirectly any gift, gratuity, favour, entertainment, loan or any other thing of value from a person who has an interest that may be substantially affected by the performance or the non performance of the election officer's duty.

Type of Action

136. Any action taken pursuant to the violation of 134 and 135 may include:

- (a) Disciplinary action; or
- (b) Prosecution in the court of law.

CHAPTER 14

GENERAL PROVISION

Prohibition of Loans

137. No Political Party or a candidate shall be permitted to take loans or advances from any institution, organisation or an individual for the purpose of incurring expenditure on election campaign.
138. A political party or candidate may, notwithstanding anything contained in section 137, take loans or advances from financial institutions within the country for purposes other than election campaigning.

Provided that a declaration is submitted in the prescribed form to the Election Commission along with the Annual Account in section 110 stating that such a loan or advance has not been used for an activity that has contributed to election campaigning.

139. Any loan taken by a political party or candidate shall be only from the financial institutions within the Kingdom of Bhutan.

Exempted Expenditures

140. The expenses that are not counted against spending limit shall include:
- (a) Spending made to comply with the Election Act;
 - (b) Expenses related to petition litigation; and
 - (c) Payment of fines, forfeiture, or civil penalties or for the defense of any enforcement action of the Election Commission.

Foreign Assistance Prohibited

141. A party or a candidate shall not receive money or any assistance from foreign sources, be it governmental, non-governmental, private organizations, or individuals.
142. The Election Commission shall, before taking any action under the provisions of the Election Act in respect of any violation of section 141, carry out thorough scrutiny and give the candidate or party concerned a reasonable opportunity of being heard in respect of the action proposed to be taken against him/her or it.

Liability of the Party or Candidate

143. The President, Treasurer of the party and the candidate himself/herself shall be legally liable for any fines that may be imposed under this Act.
144. The Election Commission shall authorize the national observers to monitor the utilization of the Fund.

Prohibited Activity

145. Any candidate, person, or party that colludes, schemes, or collaborates to misuse, collect, or improperly accept Fund under this Act shall be guilty of petty misdemeanor.

Burden of Proof

146. The burden of proof shall lie on the party and candidate to prove that expenditures made by them were for direct campaign purposes.

Severability

147. If a provision of this Act or its application to any person or circumstances is held invalid, the invalidity shall not affect the other provisions or application of the Act.

Rule-Making Power

148. The Election Commission shall enforce or require any other act to be done for carrying out the purposes of this Act, without prejudice to the provisions of the Election Act.
149. The Election Commission shall make rules for carrying out the purposes of this Act, and such rules be issued by notification.
150. This Act is in addition to any requirements imposed by the Election Act and shall not be contrary to any requirements of the Election Act.

Inherent Powers

151. The Supreme Court shall have the power to award reasonable penalty where a particular offence is not covered or is only partially covered by this Act or any by-law made under this Act, and is not otherwise excluded from adjudication.

Amendment

152. The amendment of this Act by way of addition, variation or repeal shall be effected only by a simple majority of the respective Houses or a vote of no less than two-third 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 Election Commission.
153. Parliament shall have the moral responsibility to ensure that any amendment made does not promote corruption or undue role of money power in influencing the election results.

Authoritative Text

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