

# ELECTION COMMISSION OF BHUTAN



## Election Advertising Regulations of the Kingdom of Bhutan, 2018

## Contents

<b>CHAPTER 1</b> .....	<b>1</b>
1. Title, Extent, Application and Commencement .....	1
2. Definition .....	1
<b>CHAPTER 2</b> .....	<b>4</b>
<b>ELECTION ADVERTISING PARTICULARS</b> .....	<b>4</b>
3. Non-print Election Advertising Particulars.....	4
4. Restriction on Rates Charged for Election Advertising .....	4
5. Prohibition against Certain Election Advertising .....	4
<b>CHAPTER 3</b> .....	<b>5</b>
<b>ONLINE ELECTION ADVERTISING</b> .....	<b>5</b>
6. POSITIVE LIST OF ELECTION ADVERTISING .....	5
7. DISCUSSION FORUM.....	6
8. RETURNING OFFICER’S DIRECTIONS .....	7
<b>CHAPTER 4</b> .....	<b>8</b>
<b>POSTERS AND BANNERS</b> .....	<b>8</b>
9. DISPLAY OF POSTERS AND BANNERS WITHOUT PERMIT PROHIBITED.....	8
10. PERMITS FOR DISPLAY OF POSTERS & BANNERS .....	8
11. DISPLAYING OF POSTERS & BANNERS .....	8
12. REMOVAL OF POSTERS & BANNERS .....	9
13. PROHIBITION OF INSCRIPTIONS .....	9
14. POSTERS & BANNERS NOT TO BE OBSCURED.....	9
15. BAN ON DISPLAYS NEAR POLLING STATIONS .....	9
16. OFFICIAL STAMP FOR POSTERS & BANNERS.....	10
17. COPY OF POSTER OR BANNER.....	10
18. OTHER FORMS OF ELECTION ADVERTISING DISPLAYS.....	10
19. PENALTIES.....	11
<b>CHAPTER 5</b> .....	<b>12</b>
<b>GENERAL PROVISIONS</b> .....	<b>12</b>
20. OTHER WRITTEN LAWS NOT AFFECTED.....	12
21. POWER OF THE COMMISSION TO ISSUE INSTRUCTIONS AND DIRECTIONS .....	12
22. AUTHORITY OF INTERPRETATION AND AMENDMENT .....	12

## **Election Advertising Regulations of the Kingdom of Bhutan, 2018**

In exercise of the power conferred by section 35(e) of the Election Act of the Kingdom of Bhutan, 2008 and to ensure fair and responsible advertising in elections, the Election Commission of Bhutan hereby adopts and promulgates the *Election Advertising Regulations of the Kingdom of Bhutan, 2018*.

### **Chapter 1**

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

1.1 These Regulations shall:

1.1.1 Be called the *Election Advertising Regulations of the Kingdom of Bhutan, 2018*;

1.1.2 Extend to the whole of the Kingdom of Bhutan;

1.1.3 Apply to the dissemination, distribution and exhibition of advertisements by Political Parties, Candidates and/or any other persons during elections; and

1.1.4 Come into force with effect from 15<sup>th</sup> of February 2018 corresponding to 30<sup>th</sup> Day of the 12<sup>th</sup> Month of the Fire Female Bird Year of the Bhutanese Calendar.

#### **2. Definition**

2.1 In these Regulations, unless the context otherwise requires:

2.1.1 “Banner” means any election advertising that is a flag, bunting, ensign or standard;

2.1.2 “Campaign Period”, in relation to an election, means the period commencing from the date of issue of notification as announced by the Commission and ending forty-eight hours prior to the hour fixed for the commencement of the poll;

2.1.3 “Commission” means the Election Commission of Bhutan formed in accordance with the Article 24 of the Constitution of the Kingdom of Bhutan;

2.1.4 “Election Act” means the Election Act of the Kingdom of Bhutan, 2008;

2.1.5 “Election Advertising” means advertising used during a campaign period to promote or oppose, directly or indirectly:

- 2.1.5.1 The election of a candidate; or
- 2.1.5.2 A registered Political Party.
- 2.1.6 “Election Advertising Expense” means an expense incurred in relation to the:
  - 2.1.6.1 Production of an election advertising message;
  - 2.1.6.2 Acquisition of the means of transmission to the public of an election advertising message.
- 2.1.7 “Election Period” means the period beginning on the day of issue of notification and ending with the declaration of results;
- 2.1.8 “Electronic Mail Address” means a destination to which electronic mail can be sent or delivered, and includes such address consisting of a user name or mailbox or an Internet domain which remains capable of receiving electronic mail message and has capacity to receive the full expected quantity of reply messages from recipients;
- 2.1.9 “Permit” means a permit issued under Chapter 4 under this Regulations for the display of any poster or banner;
- 2.1.10 “Poster” means any election advertising that is:
  - 2.1.10.1 A drawing, painting, handbill or placard;
  - 2.1.10.2 A symbol of a Political Party; or
  - 2.1.10.3 Written, printed, drawn or depicted on any material, and where any election advertising is written, printed, drawn or depicted in sections, such sections, both individually and collectively, shall be deemed to be a poster.
- 2.1.11 “Recipient”, in relation to any electronic mail message, advertisement or material, means the person to whom such message, advertisement or material is addressed, and if the person has more than one electronic mail address, the person shall be regarded as a separate recipient with respect to each such address;
- 2.1.12 “Relevant Particulars”, in relation to any election advertising, means the name and address, not being a post-office box, of:
  - 2.1.12.1 The publisher of the election advertising; and

2.1.12.2 Every person for whom or at whose direction the election advertising is published;

2.1.13 “Social Media” means the online and mobile communication, collaboration, sharing or publishing platform, whether accessed through the web, a mobile device, text messaging, email or any other existing or emerging communication platform used to publish and interact with the wider public or individuals, generally by means of the Internet, web-based interfaces or cellular technology such as Facebook, Twitter, WeChat, Instagram, WhatsApp, etc.

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

## **Chapter 2**

### **Election Advertising Particulars**

#### **3. Non-print Election Advertising Particulars**

- 3.1 The relevant particulars of any election advertising in a website shall be shown conspicuously on the first opening page of the website containing any election advertising.
- 3.2 The relevant particulars shall be shown on every election advertising sent by electronic mail, short message service or any Social Media in a font that is not smaller than the font of the message text.

#### **4. Restriction on Rates Charged for Election Advertising**

- 4.1 A Media Agency must charge a Political Party or candidate a uniform rate for election advertising in a periodical publication or on radio or television during the same campaign period.

#### **5. Prohibition against Certain Election Advertising**

- 5.1 An individual or organization shall, at least 48 Hour before the day of poll, not conduct election advertising by publishing it in a newspaper, magazine or broadcast on radio and television or any Social Media.

## Chapter 3

### *Online Election Advertising*

#### 6. Positive List of Election Advertising

6.1 Political Party, Candidate or election representatives may, during the election period, use the Internet or Social Media only for the election advertising as prescribed hereinafter:

6.1.1 Post photograph of any candidate or group of candidates or any drawing or illustration which purports to depict any such candidate or group of candidates;

6.1.2 Publish historical or biographical information about, and any manifesto or declaration of policies or ideology of the Political Party or the Candidate;

6.1.3 Send message by electronic mail that promotes or opposes any Political Party or the election of any Candidate or group of candidates;

6.1.4 Publish Newsletter, journal or other periodical publication of the Political Party;

6.1.5 Publish advertisement or material for the recruitment of members of a Political Party;

6.1.6 Announce any meeting or *Demkhong* visit held or to be held by or on behalf of a Candidate or the Political Party;

6.1.7 As a facility where persons can communicate with each other in real time through text messages or post articles or letters for discussion or comment; and

6.1.8 As an electronic cross-reference on a web page that links the web page directly to any other web page that may or may not contain any election advertising, the publication of which complies with these *Regulations and Social Media Rules and Regulations, 2018* and is not proscribed by the Commission.

6.2 Any message by electronic mail referred to in section 6.1.3 and every advertisement or material referred to in section 6.1.5 that is sent by electronic mail shall:

6.2.1 Contain a clearly and conspicuously displayed functioning electronic

mail address to which the recipient of the electronic mail message, advertisement or material may send a reply indicating his/her desire not to receive further such message, advertisement or material; and

- 6.2.2 Not contain any statement or matter requesting, appealing or encouraging the recipient of the electronic mail message, advertisement or material to forward, re-transmit or further publish on the Internet such electronic mail message, advertisement or message to any other person.
- 6.3 The sender of any electronic mail message, advertisement or material containing election advertising shall not further send or cause to send during the election period to the recipient's electronic mail address, if such recipient makes a request under section 6.2.1.
- 6.4 A Political Party, or any Candidate or their election representatives shall, for the avoidance of doubt, not permit on the Internet any of the following:
  - 6.4.1 Publish exit poll within the meaning of the Election Act; and
  - 6.4.2 Cause any member of the public or any class thereof to search for election advertising the publication of which contravenes these Regulations, *the Social Media Rules and Regulations, 2018* or is so proscribed by an order of the Commission.
- 6.5 Every Political Party and Candidate or group of candidates and his/her or their election representative shall use its or their best efforts to ensure that any election advertising published or cause to be published is done in conformity with this Regulations and any other law in force.

## 7. Discussion Forum

- 7.1 A Political Party or a Candidate launching or maintaining a chat room or discussion forum during the election period shall before the start of the election period, appoint as moderator one or more persons of the Political Party and notify an officer so authorized by the Commission.
- 7.2 The duty of the moderator of any discussion forum shall be to:
  - 7.2.1 remove without delay any material contained in the chat room or discussion forum as and when directed by and in accordance with the written directions of the officer authorized under section 8.1; and
  - 7.2.2 Maintain a record of all text messages, articles and letters sent to any



such online forum, in particular the contents thereof, during the election period.

7.3 The Political Party or Candidate on whose behalf a discussion forum is launched or maintained shall:

7.3.1 Use its or his/her best effort to ensure that the chat room or discussion forum is in conformity with these Regulations and any other law in force; and

7.3.2 Keep and furnish to the officer authorized under section 8.1 all information, records, documents, data or other materials concerning or relating to the provision of the chat room or discussion forum as he/she may, from time to time, require during the election period.

## 8. **Returning Officer's Directions**

8.1 The Returning Officer or any person so authorized by him/her may issue written directions to any Political Party or Candidate or his/her or their election representatives or to any relevant person to remove or prohibit any election advertising that has been published by or on behalf of the Political Party or Candidate which is against public interest, public order or national harmony or offends good taste or decency.

8.2 The Political Party or Candidate or their election representatives or the relevant person concerned shall, as the case may be, on receipt of any written directions under section 8.1 immediately remove or prohibit the inclusion of the whole or any part of the election advertising, he/she/they published or caused to be published.

## Chapter 4

### Posters and Banners

#### 9. **Display of Posters and Banners without Permit Prohibited**

9.1 No person shall during the campaign period of an election display or cause to display any poster or banner relating to any Political Party, Candidate or group of candidates in that election unless the person is authorized to do so under a permit issued by the Returning Officer.

#### 10. **Permits for Display of Posters & Banners**

10.1 The Returning Officer of the respective *Demkhongs* shall, as soon as possible, after the issue of notification calling for elections, issue to every Political Party contesting in Primary Round of Elections a permit in the **Election Advertising Form No. 1** set out in the Schedule authorizing the display of posters and banners, in places where Election Advertising Boards are not available.

10.2 The Returning Officer shall, as soon as possible, after the nomination proceedings have closed, issue a permit in the **Election Advertising Form No. 1(A, B or C)** authorizing the display of posters and banners in the prescribed place.

10.3 The Returning Officer may, in the permit, impose such terms and conditions as he/she may think fit, including conditions as to the:

10.3.1 Specific place, structures or things on which, posters and banners are permitted to be displayed where Election Advertising Boards are not available; and

10.3.2 Manner in which posters and banners may or must not be displayed.

#### 11. **Displaying of Posters & Banners**

11.1 A Candidate or Political Party or an authorized representative of a Candidate or Political Party shall use only the Election Advertising Boards erected by the Commission for the purpose of displaying election campaign posters and advertisements.

11.2 No banners and posters shall be displayed at the places, structures or things specified here below:

- 11.2.1 Public Property;
- 11.2.2 Private Property; or
- 11.2.3 Tree or structure on or along any public road.

**12. Removal of Posters & Banners**

- 12.1 The Returning Officer shall direct the removal of any poster or banner which is displayed in contravention of any of the provisions of this Regulations or of any term or condition contained in the permit issued under this Regulations.
- 12.2 The Political Party or Candidate shall, on the direction of the Returning Officer under section 12.1, ensure the removal of unauthorized campaign banners, posters and stickers.
- 12.3 The Political Party and the Candidate concerned shall, after the declaration of results, remove their banners, posters and stickers put up during the campaigns.
- 12.4 The Political Parties and the Candidates concerned shall, after the declaration of results, dispose any litter arising from the election campaign materials.

**13. Prohibition of Inscriptions**

- 13.1 No person shall write, draw, paint, spray, paste, stick, carve, inscribe or depict any election advertising directly on any road, footpath, building, vehicle, or public property.

**14. Posters & Banners not to be Obscured**

- 14.1 No person shall display or cause to display any poster or banner during the campaign period of an election so as to obscure the view of any poster or banner already displayed.

**15. Ban on Displays Near Polling Stations**

- 15.1 No person shall display or cause to display any poster or banner within 100 metres of any polling station.
- 15.2 The Returning Officer or another election official authorized by him/her may, if section 15.1 is being contravened by the posting or display of election materials,

enter on the property where the materials are located and remove or cover or otherwise obscure them from view.

16. **Official Stamp for Posters & Banners**

16.1 No person shall display or cause to display during the campaign period of an election any poster or banner unless a stamp, as prescribed in **Election Advertising Form No.1A** in case of Primary Round and **Election Advertising Form No. 1A, 1B and 1C** for General Elections, National Council Elections and Local Government Elections issued by the Returning Officer bearing his/her official mark is affixed to the poster or banner.

17. **Copy of Poster or Banner**

17.1 No person shall display or cause to display by any means during the campaign period of an election any poster or banner unless:

17.1.1 A copy of the poster or a detailed diagram or drawing of the banner has previously been lodged with the Returning Officer; and

17.1.2 The person is in possession of a written authority to conduct election activity issued in accordance with the Election Act.

18. **Other Forms of Election Advertising Displays**

18.1 No person shall, subject to the provisions of these Regulations, during the campaign period of an election display or cause to display any election advertising by:

18.1.1 Means of any television broadcast for reception by the public or any class thereof, whether on payment or otherwise;

18.1.2 Exhibiting it in, or in a manner so as to be visible from, any place to which the public have or are permitted to have access, whether on payment or otherwise; or

18.1.3 Publishing it in any newspaper, magazine, periodical or Social Media, unless the person is authorized to do so by and does so in accordance with the written directions of the Returning Officer.

Provided the broadcast or publication of any item of news or current affairs which contains any reference to any election advertising shall not be prohibited under this section.

## 19. **Penalties**

19.1 A person shall be guilty of offence under the Election Act, if he/she:

19.1.1 Tamper, removes, destroys, obliterated or defaces, any poster or banner displayed in accordance with any of the provisions of this Chapter;

19.1.2 Displays or causes to display any poster or banner other than in accordance with any of the provisions of this Chapter or any term or condition contained in any permit or written direction issued under this Chapter;

19.1.3 Obstructs the Returning Officer, or any member of his/her staff or any police officer on duty, in carrying out his/her duties under any of the provisions of this Chapter; or

19.1.4 Obstructs any candidate or his/her election representative or any person from lawfully conducting any election activity or undertaking any act which he/she is authorized to do under any provision of this Chapter.

**Chapter 5**  
**General Provisions**

**20. Other Written Laws Not Affected**

20.1 These Regulations are in addition to and are not in derogation of any other written law for the time being in force relating to the display of posters, banners and advertisements whether or not these contain election advertising.

**21. Power of the Commission to Issue Instructions and Directions**

21.1 The Commission may issue instructions and directions:

21.1.1 For the clarification of any of the provisions of these Regulations;

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

21.1.3 In relation to any matter with respect to Election Advertising, for which these Rules make insufficient provision, and clarification is necessary in the opinion of the Commission.

**22. Authority of Interpretation and Amendment**

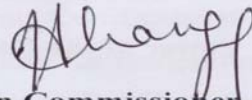
22.1 The Commission shall, in case of differences in meaning, be the final authority on interpretation of these Regulations.

22.2 The Commission shall have the power to amend by way of addition, variation, or repeal the provisions of these Regulations.

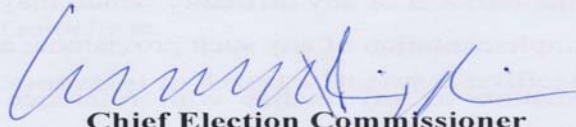
**Done under the seal of the Election Commission of Bhutan on this 15<sup>th</sup> of February 2018 Corresponding to the 30<sup>th</sup> Day of the 12<sup>th</sup> Month of the Fire Female Bird Year in the Bhutanese Calendar.**



**Election Commissioner**



**Election Commissioner**



**Chief Election Commissioner**

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