

Election Commission of Bhutan



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Guidelines for Conduct of Election of the Opposition Party, 2015

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Guidelines for Conduct of Election of the Opposition Party, 2015

INTRODUCTION

After the First and Second Parliamentary Elections in 2008 and 2013 respectively, the *Member-Elects* from the respective Opposition Parties submitted resignations. Therefore, while it is unlikely that a Party in Parliament would resign, such a possibility cannot be ruled out. Thus, if an Opposition Party either resigns, is dissolved or deregistered, an election of the Opposition Party from among the interested registered Political Parties outside Parliament, would become necessary. The Election Commission of Bhutan, accordingly considers it necessary to have in place a mechanism to conduct such an election and hereby adopts the Guidelines for Conduct of Election of the Opposition Party in Parliament of the Kingdom of Bhutan, 2015.

1. Title, Extent, Application and Commencement

1.1 These Guidelines shall:

- 1.1.1 Be called the Guidelines for Conduct of Election of the Opposition Party in Parliament of the Kingdom of Bhutan, 2015;
- 1.1.2 Be applicable to the conduct of Election of the Opposition Party when the original Opposition Party either resigns from Parliament, is dissolved, deregistered or the Members of Parliament from the Opposition Party resigns from office creating a vacancy of the Opposing Party in Parliament;
- 1.1.3 Refer to the election as the Election of the Opposition Party as it is neither a Primary Round nor General Election or a Bye-election;
- 1.1.4 Extend to the whole of the Kingdom of Bhutan; and
- 1.1.5 Come into force with effect from 24th of June 2015 corresponding to 8th Day of the 5th Month of the Wood Female Sheep Year of the Bhutanese Calendar.

2. Dissolution, Deregistration or Resignation

- 2.1 A Party may, under the Laws, be dissolved by order of Supreme Court or removed from the Register of Political Parties by the Election Commission of Bhutan, including upon such request from a Party.
- 2.2 Elections shall be conducted to elect the Opposition Party, if all Members of Parliament from the Opposition Party resign as it would have the same effect as the dissolution or deregistration of the Party as there will be vacancy of the Opposition Party in Parliament.

3. Procedure

- 3.1 Election of the Opposition Party shall be held for the consequent vacant Constituencies amongst the registered Political Parties that are not in Parliament.
- 3.2 The National Assembly shall, when an Election of the Opposition Party is called, remain in a state of suspended animation during the election period.
- 3.3 The election shall be completed within sixty days from the date of occurrence of vacancy.
- 3.4 The Parties shall submit their Letter of Intent within the prescribed dates and the Polls conducted as if it is for the Parliamentary Elections provided under the Electoral Laws.
- 3.5 The Ruling Party and their Candidates shall not be entitled to contest such an election.
- 3.6 The Party that obtains the maximum votes in the Poll shall be declared the Opposition Party and entitled to nominate the members to fill the seats for the concerned Constituencies till completion of remaining term of office of the original Opposition Party.

- 3.7 The National Assembly shall resume upon completion of an election of the Opposition Party and the vacancy is filled-up.
- 3.8 An uncontested election shall be conducted if there is only one Letter of Intent submitted.
- 3.9 The Ruling Party shall continue to function till completion of the remaining term if no registered Political Party submits the Letter of Intent within the notified dates.

4. Other Action

- 4.1 The Election Commission shall review the legitimacy and continuity of a Political Party as a Legal Entity when all of its Members of Parliament resign from Parliament.

5. Penal Provision

- 5.1 All or any violation of these Guidelines shall be dealt in accordance to the Election Act.

6. Relevant Legal Provisions

- 6.1 The relevant sections of the Constitution of the Kingdom of Bhutan and the Election Act of the Kingdom of Bhutan 2008 are as presented in the Annexure.

7. Power of the Commission to Issue Instructions and Directions

- 7.1 The Commission may issue instructions and directions:
 - 7.1.1 For the clarification of any of the provisions of these Guidelines;
 - 7.1.2 For the removal of any difficulty which may arise in relation to the implementation of any such provisions; and
 - 7.1.3 In relation to any matter with respect to conduct of the Election of the Opposition Party, for which these Guidelines make insufficient provision, and clarification is necessary in the opinion of the Commission.

8. Authority of Interpretation and Amendment

- 8.1 The Commission shall be the authority competent to interpret the clauses of these Guidelines.
- 8.2 The Commission shall have the power to amend by way of addition, variation, or repeal the provisions of these Guidelines

Done under the seal of the Election Commission of Bhutan on this 24th Day of June 2015 corresponding to the 8th Day of the 5th Month of the Wood Female Sheep Year in the Bhutanese Calendar.



Election Commissioner



Election Commissioner



Chief Election Commissioner

Applicable Legal Provisions

The relevant provisions of the Constitution of the Kingdom of Bhutan and the Election Act of the Kingdom of Bhutan 2008 requiring the Election of the Opposition Party are:

The Constitution of the Kingdom of Bhutan

- a. Section 14 Article 10:** The presence of not less than two-thirds of the total number of members of each House respectively shall constitute a quorum for a sitting of the National Council or the National Assembly.
- b. Section 5 Article 15:** Election to the National Assembly shall be by two political parties established through a primary round of election in which all registered political parties may participate.
- c. Section 9 Article 15:** No election shall be held where the remainder of the term of the National Assembly is less than one hundred and eighty days.
- d. Section 13 Article 15:** During the election of the opposition party under Section 14 of this Article, the National Assembly shall be suspended animation and the ruling party and their candidates shall not contest in the elections.
- e. Section 14 Article 15:** Where the original opposition party stands dissolved under this Constitution, an opposition party shall be elected:
 - (a) Within sixty days from the date of the dissolution of the original opposition party;

- (b) From the Parties registered with the Election Commission in accordance with Section 4 of this Article; and
- (c) Through an election held under the Electoral Laws to fill the seats of those constituencies which stood vacant on the dissolution of the original opposition party.

f. Section 15 Article 15: Upon such election of the opposition party and the seats having been filled up, the National Assembly shall resume thereafter in accordance with the provisions of this Constitution.

Election Act of the Kingdom of Bhutan 2008

a. Section 138: A party shall neither apply for registration under a name of a political party nor give the design of its symbol in the subsequent election following the date of the dissolution of such political party by the order of the Supreme Court or removal from the Register of Political Parties by the Election Commission under Section 147.

b. Section 147: The Election Commission may remove the name of a Political Party from the Register of Political Parties, if:

- (d) It has intimated its desire to the Commission to be struck off the Register of Political Parties; or
- (e) There exists a ground where an enquiry is not required to be made by the Commission.

c. Section 148: An opposition party shall be elected, when the opposition party stands dissolved under the Constitution:

- (a) Within sixty days from the date of the dissolution of the opposition party;
- (b) From the parties registered with the Election Commission in accordance with Section 4 of Article 15 of the Constitution; and
- (c) Through an election and the party obtaining the highest number of votes shall nominate its members to fill the seats of those constituencies which stood vacant on the dissolution of the original opposition party.

Provided where the ruling party in the National Assembly is dissolved under the provision of the Election Act or any other law, the National Assembly shall stand dissolved and fresh elections held.

d. Section 149: If only one letter of intent is submitted for contesting the opposition party election, an uncontested election shall be conducted.

e. Section 150: The Ruling Party shall continue to function till completion of the remaining term in office if no registered political parties submit the Letter of Intent within the notified dates.

f. Section 151: A political party dissolved under the Constitution shall be deregistered from the register of political parties and such parties shall not be allowed to contest in subsequent elections.

g. Section 185: The National Assembly shall continue for five years from the date of the first sitting of the House.