

SPEAKER'S ACT OF THE NATIONAL ASSEMBLY OF BHUTAN 2004

THE NATIONAL ASSEMBLY COMMITTEES ACT

OF

THE KINGDOM OF BHUTAN, 2004

Preamble

An Act to provide for the establishment of the National Assembly Committees to deliberate, inquire, investigate, legislate, review and draw attention to any important matter that are referred to them and to give advice for matters connected therewith and incidental thereto.

Be it enacted by the National Assembly of Bhutan in the Wood Male Monkey Year, 6th Month of the 14th Day, corresponding to 30th Day of 7th Month of the Year 2004 during its 82nd Session as follows, -

CHAPTER I

PRELIMINARY

Short Title and Commencement

1. (1) This Act may be cited as the “National Assembly Committees Act of the Kingdom of Bhutan, 2004.”
- (2) This Act shall come into force on the 14th Day, 6th Month of the Wood Male Monkey Year, corresponding to 30th day of 7th Month of the Year 2004.

CHAPTER II

ESTABLISHMENT AND RESPONSIBILITIES OF LEGISLATIVE AND PUBLIC ACCOUNTS COMMITTEES

Establishment of Standing Committees

2. The National Assembly shall establish the following standing committees,
 - (1) the Legislative Committee; and
 - (2) the Public Accounts Committee.

Establishment of Legislative Committee

3. The Legislative Affairs Committee shall be established by issuing a Standing Order or by Resolution of the National Assembly on the motion raised by the members of the House.

Responsibility of the Legislative Committee

4. The Legislative Committee's area of responsibility is, -

(1) to consider any Bill introduced into the House or submitted to the Speaker and to report to the House as to whether the Bill, by express words or otherwise, –

(a) trespass unduly upon individual rights or freedoms; or

(b) makes rights, freedoms or obligations dependent upon insufficiently defined administrative powers; or

(c) makes rights, freedoms or obligations dependent upon non-reviewable administrative decisions; or

(d) unduly requires or authorizes acts or practices that may have an adverse effect on personal privacy/right to privacy; or

(e) inappropriately delegates legislative powers; or

(f) repeals, alters or varies any provisions of the Constitution, or raises an issue as to the jurisdiction of the Supreme Court;

(2) to perform such functions as are conferred on the committee by the subordinate legislations;

(3) to perform such functions as are conferred on the committee by other relevant Acts;

(4) to review any Act where required so to do by or under this Act, in accordance with terms of reference under which the Act is referred to the committee;

(5) to inquire into, consider and report to the Parliament where required or permitted so to do by or under this Act, on any proposal, matter or thing concerned with legal, constitutional or Parliamentary reform or with the administration of justice;

(6) to examine, report and make recommendations to the Parliament in respect of any proposal or matter relating to law in Bhutan where required so to do by or

under this Act, in accordance with the terms of reference under which the proposal is referred to the committee;

(7) to examine and verify the accuracy of the Dzongkha text and the English text of each legislative bill so as to ensure the uniformity and certainty of meaning;

(8) to perform such other functions as may be assigned by the National Assembly from time to time;

(9) to examine whether the legislative bill is not contrary to the spirit of the authorizing legislation.

Establishment of Public Accounts Committee

5. The Public Accounts Committee shall be established by issuing a Standing Order or by Resolution of the National Assembly on the motion raised by the members of the House.

Responsibility of Public Accounts Committee

6. The Public Accounts Committee shall assess the integrity, economy, efficiency, transparency and effectiveness of Government financial management by examining, -

(a) The accounts showing the appropriation of the sums granted by the National Assembly to meet the expenditure of the Royal Government of Bhutan;

(b) the various Audit Reports of the Auditor General on revenue receipts, expenditure by various Ministries/Departments of Royal Government and accounts of autonomous bodies;

(c) the cases involving losses, nugatory expenditure and financial irregularities;

(d) the performances of all government corporations and agencies in which public funds have been invested; and

(e) such other accounts as referred to it by the National Assembly.

CHAPTER III

POWER TO ESTABLISH AND FUNCTIONS OF OTHER COMMITTEES

Establishment of other Standing Committee(s)

7. The National Assembly may establish such other standing committees as and when it finds necessary by issuing Standing Order or by passing Resolution as the case may be.

Functions of other Standing Committee(s)

8. A committee shall discharge its responsibilities within the parameters set out in the Standing Orders or in the Resolution of the House as the case may be.

Select or Ad Hoc or Special Committee(s)

9. (1) The National Assembly may establish select or ad hoc or special committee(s) at any time by issuing the Standing Order or by passing the Resolution specifying the committee's composition, responsibilities, terms of reference and powers.

(2) Such committee shall cease to exist at the end of a session or at the dissolution of the House or after the presentation of its report to the House.

Sub-committee(s)

10. (1) A committee may appoint one or more sub-committees with the approval of the Speaker or by the order of the House.

(2) The committee so appointed shall have powers of the undivided committee to exercise any matter that may be referred to them by the Speaker or the House as the case may be.

(3) The whole Committee shall consider the reports of the subcommittee(s).

(4) The reports of such sub-committee(s) shall be deemed to be the report of the whole committee, if they are approved by the sittings of the whole committee.

(5) The order of reference to a sub-committee shall clearly state the point or points for investigation.

Joint Committee(s)

(1) A Joint Committee composed of members from both Houses may be established by an Act of Parliament or by concurrent resolution of both Houses.

(2) A joint committee shall have only such authority, and can exercise only such powers, as have been conferred upon it by the concurrent resolution of both Houses.

(3) A joint committee shall not transact its business unless a quorum of the Members appointed by each House to serve on the committee is present.

CHAPTER IV

CONSTITUTION OF COMMITTEE AND OTHER RELATED MATTERS

Constitution of Committee

12. 1) A committee shall consist of not more than five members who shall be appointed by the Speaker or elected by the House from amongst its members.

(2) A minister shall not be elected as member of the committee, and that if a member, after his election to a committee, is appointed a minister he shall cease to be a member of the committee from the date of such appointment.

Conflict of Interest

13. A Committee member who has the personal, pecuniary or direct interest that may prejudicially affect the consideration of any matter to be considered by the Committee shall not attend any Committee meeting on that matter so as to avoid the possibility of prejudice.

Duration of Committee

14. (1) A Standing Committee shall be established for the whole term of the National Assembly.

(2) The duration of a Committee shall, unless otherwise specified in the Standing Order or in the resolution, not exceed one year.

Tenure of Members

15. (1) The tenure of a Committee member shall commence on the date of appointment or election to the Committee and shall end with the expiry of one year.

(2) The National Assembly or the Speaker may re-elect or re-appoint the members after the expiry of their membership.

Quorum in the Committee

16. (1) The quorum to constitute a sitting of a Committee shall be two-thirds of the total number of members of the Committee.

(2) If at anytime fixed for any sitting of the Committee, or if at anytime during any such sitting, there is no quorum the Chairperson of the committee shall either suspend the sitting until there is a quorum or adjourn the sitting to some future date.

(3) When the committee has been adjourned in pursuance of sub-section (2) on two successive dates fixed for the sitting of the Committee, the Chairperson shall report the fact to the House or to the Speaker as the case may be.

Resignation from Committee

17. (1) A member may resign his seat from the committee by writing under his hand, addressed to the Speaker.

(2) The resignation shall take effect from the date of resignation specified in the letter of the resignation.

(3) If the date from which the resignation should take effect is not specified in the letter, the resignation shall take effect from the date of the letter.

(4) If the resignation letter does not bear any date, the resignation shall take effect from the date of the receipt of the letter in the National Assembly Secretariat.

(5) If the reason stated in the letter of resignation is not justifiable the Speaker may not accept the resignation and, if the Speaker feels that a member shall be retained in the committee then he may withhold such resignation but by giving a reasoned justification in writing.

Discharge of Committee Members

18. (1) If a member is absent from two or more consecutive sitting of a Committee without permission of the Chairperson, a motion may be moved in the House for the discharge of such member from the Committee or may be discharged by the Speaker as the case may be.

(2) The Speaker or the House may discharge a member from the Committee and appoint another member in his place.

Vacancy of Seats

19. (1) Casual vacancies in a Committee shall be filled in by appointment or election by the House on a motion made by the chairperson, or nomination by the Speaker as the case may be.

(2) Any member appointed, elected or nominated to fill such vacancies shall hold office only for the un-expired portion of the term.

Absence and Related Matters

20. No member shall absent himself or herself from the service of the Committee without leave, except in case of accident or sickness, and if any member shall so absents himself or herself, the Speaker may take necessary action and his or her per diem shall not be given.

CHAPTER V

COMMITTEE SITTINGS AND OTHER RELATTED MATTERS

Sittings of Committee

21. (1) The sittings of a committee shall be held on such date and at such hour as the Chairperson of the committee may fix.

(2) If the Chairperson is not readily available, the Secretary- General may fix the date and time of the sitting.

(3) In the case of Select or Joint Committee Bill, if the Chairperson of the committee is not readily available, the Secretary-General may in consultation with the minister concerned with the bill, fix the time and date of the sitting.

Committee may sit whilst the House is in session

22. (1) A committee may sit while the House is in session.

(2) In case of a division being called in the House, the Chairperson of the committee shall suspend the proceedings in the committee for such time as will enable the members to vote in a division.

Closed Hearings or Private Sittings

23. (1) In general, the sittings or hearings of a committee shall be public.

(2) The sittings or hearings of a committee shall be held in private only by two-thirds majority of the committee members.

(3) Any person, committee member, officials of the Government and Secretariat who attends a private sitting or closed hearing of the committee shall maintain the confidentiality of matters discussed at the sitting.

Venue of sittings

24. (1) In general, the sittings of a committee shall be held within the precincts of the House.

(2) If it becomes necessary to change the place of sitting outside the House, the Chairperson of the committee shall refer the matter to the Speaker and his decision shall be final.

Notice of Sitzings

25. (1) The Secretary to the Committee shall serve the notice of each sitting to the committee members before the actual sitting of the committee, while the House is in session.

(2) The Secretary General shall serve the notice of sitting to the committee members at least ten days before the actual sitting of the committee, when the House is not in session.

Withdrawal of Strangers

26. All persons other than members of the committee and officers of the National Assembly Secretariat shall withdraw, as directed by the Chairperson, whenever the committee decides to deliberate in private.

Decisions and Voting in a Committee

27. (1) A committee shall make efforts to resolve every issue by consensus.

(2) If the consensus could not be reached, it shall be resolved by majority vote.

Casting vote of a Chairperson

28. In case of a tie vote on any matter, the Chairperson or the deputy Chairperson or the person acting as such shall have the casting vote.

CHAPTER VI

POWER TO TAKE EVIDENCE, SUMMON WITNESS, CONFIDENTIALITY OF

EVIDENCE AND OTHER RELATED MATTERS

Power to take Evidence or call for Documents

29. (1) A witness may be summoned by an order signed by the Secretary-General and such documents as are required for the use in a committee.

(2) No document submitted to the committee shall be withdrawn or altered without the knowledge or approval of the committee.

Power to send for Persons, Papers and Records

30. (1) A committee shall have power to send for person, papers and records that are necessary for the matter of deliberation before it.

(2) If any question arises whether the evidence of the person or the production of a document is relevant for the purpose of the committee, the question shall be referred to the Speaker and his decision shall be final.

(3) If the government declines to produce a document on the ground that its disclosure would be prejudicial to the safety or interest of the state, the matter may be referred to the House for deliberation and taking appropriate decision.

Ministers not called before Committee

31. (1) A Minister shall not be called before the committee either to give evidence or for consultation in connection with the bill.

(2) The Chairperson of the committee may, after its deliberations are concluded, have an informal talk with the Minister concerned to apprise him of,

(a) any matters of policy laid down by the Ministry with which the committee does not fully agree; and

(b) any matters of secret and confidential nature which the committee would not like to bring on record in its report.

Evidence on Oath

32. (1) A committee may administer oath or affirmation to a witness examined before it.

(2) The form of oath or affirmation shall be as follows, -

“Iswear in the name of Koenchho Sum solemnly affirm that the evidence which I shall give in this case shall be true, that I will conceal nothing, and that no part of my evidence shall be false.”

Counsel for Witness

33. A committee may under the discretion of the Speaker permit a witness to be heard by the counsel appointed by him and approved by the committee.

Admission of Government Officials, Experts and other Persons

34. (1) With the permission of the Speaker, officials of the government, experts, consultants or any other person may be admitted to the Committee sittings to explain the technicalities of the matters before the Committee.

(2) If it is a closed sitting, the provisions of Section 23 (3) shall bind such officials, experts, consultants and any other person so admitted to the sittings of the Committee.

Examination of Witness

35. A committee shall examine the witness before it in the following manner, -

(1) The committee shall, before a witness is called for examination, decide the mode of procedure and the nature of the question that may be asked to the witness.

(2) The Chairperson of the committee may first ask the witness such question he may consider necessary with reference to subject matter under consideration or any subject connected therewith.

(3) The Chairperson may call other members of the committee one by one to ask any other question.

(4) A witness may be asked to place before the committee any other relevant points that have not been covered and which a witness thinks are essential to be placed before the committee. 9

(5) A verbatim record of the proceedings of a committee shall, when a witness is summoned to give evidence, be kept.

(6) The evidence submitted before the committee may be made available to all members of the committee.

Record of Decisions

36. The Secretary to the committee shall, under the direction of the Chairperson, maintain the record of decisions of a committee and circulate it to the members of the committee.

Confidentiality of Evidence, Report and Proceedings

37. (1) A committee may direct the Secretary to the Committee that the whole or a part of the evidence or a summary thereof to be laid on the table.

(2) No part of the evidence, oral or written, report or proceedings of the committee, which has not been laid on the table, shall be open to inspections by any one except under the authority of the Speaker.

(3) The evidence submitted before a committee shall not be published by any member of the committee or by any other person until it has been laid on the table.

Provided that the Speaker may, in his discretion, direct that such evidence be confidentially made available to members before it is formally laid on the table.

Audio and Visual Recording of Committee Hearings

38. The Speaker shall administer a system subject to his direction and control for complete and unedited audio and visual broadcasting and recording of the proceedings of the Committee.

Live Broadcasting or Telecasting of Committee Proceedings

39. The Committee may broadcast and telecast its hearings with the approval of the House and subject to rules and regulations issued by the Speaker.

CHAPTER VII

COMMITTEE REPORTS, PRESENTATION OF REPORT AND

OTHER RELATED MATTERS

Committee Report

40. (1) Where the House has not fixed any time for the presentation of a report by the committee, the report shall be presented within one month of the date on which reference to the committee was made.

(2) The House may at any time, on a motion being made, direct that the time for the presentation of the report by the committee be extended to a date specified in the motion.

(3) If the committee could not submit a final Report on the specified date, it shall submit a preliminary Report to the House.

(4) The Chairperson on behalf of the committee shall sign the report of the committee.

(5) If the Chairperson is absent or is not readily available, the deputy Chairperson shall sign the report of the committee.

(6) In the absence of both Chairperson and deputy Chairperson, the committee shall appoint the qualified senior-most-member to sign the report on behalf of the committee.

Special Report

41. A committee may, if it thinks fit, make a special report on any matter that arises or comes to light in the course of its work which it may consider necessary to bring to the notice of the Speaker or the House, notwithstanding that such matter is not directly connected or is not incidental to its terms of reference.

Presentation of Report

42. The report of a Committee shall be presented to the House by the Chairperson or in his absence by the deputy Chairperson or in their absence by the qualified senior-most-member of the Committee.

Printing, Publication or Circulation of Report

43. (1) The Speaker may, on a request being made to him and when the House is in session, order the printing, publication or circulation of a report of a Committee before its presentation to the House.

(2) In such case, the report shall be presented to the House during its next session at the first convenient opportunity.

CHAPTER VIII

REFERENCE OF ISSUE AND MINISTERIAL RESPONSE TO REPORT

Reference of Issues

44. The Committee may refer issues within its area of responsibility to the Auditor-General for consideration.

Ministerial Response to Reports

45. (1) This section shall apply if a report of a committee of the National Assembly recommends the Government or a Minister should take particular action, or not take particular action, about an issue.

(2) The Minister who is responsible for the issue of the report shall provide the National Assembly with a response.

(3) The response must set out, -

(a) any recommendations to be adopted, and the way and time within which they will be carried out; and

(b) any recommendations not to be adopted and the reason for not adopting them.

(4) The Minister shall table the response within three months after the report is tabled.

(5) A Minister shall submit the final report of a particular action within the time specified as per section 3 (a).

(6) If the House is not sitting, the Minister shall file the response or the final report to the Secretary-General of the House for tabling on the next sitting day.

CHAPTER IX

PROROGATION, PRIVILEGES, BUSINESS AGENDA AND OTHER RELATED MATTERS OF THE COMMITTEE

Business not to Lapse on Prorogation of the House

46. Any business pending before a Committee shall not lapse by reason of the prorogation of the House and the Committee shall continue to function notwithstanding such prorogation.

Unfinished Work of Committee

47. (1) A Committee, which is unable to complete its work before the expiration of its term or before the dissolution of the House shall report to the House that it has not been able to complete its work.

(2) Any preliminary report, memorandum or note that the Committee may have taken shall be made available to the new Committee.

Privileges of Members and Proceedings

48. The Committee members and proceeding shall be protected in a manner similar to the members and proceedings of the National Assembly so as to enable them to perform their functions without fear or intimidation.

Business Agenda

49. If the Standing Order or the Resolution of the House is silent on the matter, the Secretary to the Committee shall prepare the agenda in consultation with Committee Chair and circulate it to the members two days prior to the actual sitting of the Committee.

Power to make Suggestions on Procedure

50. A Committee shall have power to pass resolution on matters of procedure relating to that Committee for the consideration of the Speaker, who may make such variations in procedure, as he may consider necessary.

CHAPTER X

APPOINTMENT OR ELECTION OF CHAIRPERSON, DEPUTY

CHAIRPERSON

AND SECRETARY TO THE COMMITTEE

Chairperson and Deputy Chairperson

51. (1) A Committee shall appoint or elect its Chairperson and deputy Chairperson from amongst its members at its first meeting by consensus or by majority vote, as the Committee deems fit and proper, to preside over the meeting.

(2) In the absence of the Chairperson, the deputy Chairperson shall preside over the meeting and perform other functions of the Chair.

(3) If both Chairperson and the deputy Chairperson are absent or not readily available, the Committee shall appoint or elect one of the qualified senior-most-members to act as the Chairperson for that particular sitting.

(4) If the deputy Speaker is a member of the Committee, he shall be appointed as the Chairperson of the Committee.

Secretary to the Committee

52. (1) The Secretary-General to the National Assembly shall appoint a Secretary to the Committee within the parameters set out by the Standing Order or by the Resolution of the National Assembly to provide with procedural advice and secretarial support to the Committee.

(2) The Secretary to the Committee shall ensure proper preparation, distribution and recording of agenda and minutes of the Committee.

CHAPTER XI

MISCELLANEOUS PROVISIONS

Power to Make Detailed Rules

53. A Committee may with the approval of the Speaker frame and adopt internal rules of procedure to govern the proper discharge of its functions under this Act. It shall come into force on the day of approval by the Speaker.

Power of the Speaker to give Directions

54. (1) The Speaker may from time to time issue such directions to the Chairperson of the Committee, as he may deem necessary for regulating its procedure and organization of its works.

(2) If any doubt arises on any point of procedure, the Chairperson may refer the point to the Speaker whose decision shall be final.

Applicability of General Rules to Committee

55. (1) Unless there is a special provision made to any particular Committee, the Rules of Procedure of the House shall apply to all Committees.

(2) In case of inconsistency between the special rules relating to a Committee and the general rules enshrined in the Rules of Procedure of the House, the former shall prevail.

Special Allowance

56. (1) If any committee is required to meet while the National Assembly is not in session, a committee member shall be entitled to sitting fees as per the applicable rules and regulations; and

(2) the Daily Allowance and Travel Allowance for any journey performed in connection with a meeting of the Committee.

Language

57. A Committee shall conduct all its business in national language, Dzongkha.

Amendment

58. This Act shall be amended as and when required to do so by the National Assembly of Bhutan.

Authoritative Text

59. In case of difference in interpretation between the Dzongkha text and English text, the Dzongkha text shall prevail.

Definitions

60. In this Act, unless the context otherwise requires, -

- (1) “Bill” means the Act after its enactment by the National Assembly.
- (2) “Chairperson” means the Chairperson of a committee of the National Assembly;
- (3) “Deputy Chairperson” means the Deputy Chairperson of a Committee of the National Assembly;
- (4) “Committee” means the Committee of the National Assembly and it includes the Standing Committees;
- (5) “Committee member” means the Committee member of the National Assembly and includes the member of a Joint Committee;
- (6) “Majority vote” means a simple majority vote of the committee members present and voting;
- (7) “Member” means a Member of the National Assembly;
- (8) “Secretariat” means the Secretariat of the National Assembly;
- (9) “Speaker” means the Speaker of the National Assembly;
- (10) “Secretary-General” means the Secretary-General of the National Assembly;
- (11) “House” means the National Assembly;
- (12) “Table” means the table of the National Assembly;
- (13) “Precincts of the House” means the committee rooms and includes the Chamber, the lobbies, the galleries and such other places as the Speaker may from time to time specify;
- (14) “Officials of the Government” means the civil servants and any other officials;
- (15) “Houses” means the National Advisory Council and the National Assembly;
- (16) “Witness” means and include any person summoned by a committee to attend its meeting in connection with the matter under deliberation.
- (17) “Parliament” means the National Advisory Council and the National Assembly.

Statement of Objects and Reasons

In accordance with the farsighted vision and policy of decentralization of His Majesty the fourth Druk Gyalpo, King Jigme Singye Wangchuck and keeping with the change in time and rapid socio-economic development in the country, it is high time that like many deliberative assemblies, the National Assembly of Bhutan also finds it useful to delegate responsibility for certain tasks to small groups. The National Assembly may refer a particular matter to a committee if the matter warrants detailed examination, if the Parliament wants more information, or if it wants to hear views on the matter. These tasks are more easily undertaken by a small group of committee members rather than by the members of the National Assembly as a whole.

Committees encourage and enable the National Assembly members to develop special interests and expertise in particular aspects of public policy. They also provide an opportunity for organisations and individuals to make representations to the National Assembly and to have their views placed on the public record. They investigate, legislate, review and draw attention to any important matter that are referred to them and give advice.

Standing Committees are permanent committees established under the National Assembly's Standing Orders or by resolution of the House for the duration of a Parliament. They are usually re-established at the beginning of each new Parliament and can continue to function until the end of the day before the commencement of the next Parliament. When there is a double dissolution all committees of both Houses cease.

Standing committees permit a continuing surveillance of defined fields of government activity, call upon scholarly research and advice and create an awareness of the Assembly's 'watchdog' function. In order to materialize those objectives mentioned above, the National Assembly Committees Bill has been drafted by the National Assembly Secretariat and scrutinized by the Legislative Committee. The bill is to be tabled before the 82nd Session in compliance with the resolution passed by the National Assembly in its 81st Session.