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**NATIONAL REFERENDUM BILL  
OF  
THE KINGDOM OF BHUTAN, 200/**

**Preamble**

*WHEREAS*, pursuant to Article 32 of the Constitution of the Kingdom of Bhutan 2008, the general will of the people shall also be expressed through National Referendums held in a free and fair manner, Parliament of the Kingdom of Bhutan in its session held on ....of the year 2008 enacts the National Referendum Act of the Kingdom of Bhutan:

**CHAPTER 1**

**PRELIMINARY**

**Title, Commencement, Application and Extent**

1. This Act shall:
  - (a) Be called the National Referendum Act of the Kingdom of Bhutan, 2008;
  - (b) Come into force on the ..... Day, of ... Month of... Year of the Bhutanese Calendar corresponding to .... Day of the ... Month of 2008;
  - (c) This Act shall apply to all National Referendums held in the Kingdom of Bhutan; and
  - (d) Extend to the whole of the Kingdom of Bhutan.

**Definition**

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

- (c) “Election Act” means the Election Act of the Kingdom of Bhutan 2008;
- (d) “Media” means the mass media including print and electronic media and such other forms as may be prescribed by the Election Commission from time to time;
- (e) “Motion for National Referendum” means a National Referendum:
  - (i) Commanded by the Druk Gyalpo under section 4(a) of this Act;
  - (ii) A written petition by members of Dzongkhag Tshogdues as provided under section 4(b) of this Act; or
  - (iii) Initiated by Parliament under section 4(c) of this Act.
- (f) “Permitted Participant” means a registered political party or voter as defined under the Election Act of the Kingdom of Bhutan who submits, in the prescribed form a Letter of Intent to the Election Commission, to conduct campaign for or against a National Referendum on a date not later than the seventh day after the date of issue of notification under section 26 of this Act;
- (g) “Polling Booth” means an enclosure made for voters at the polling station to enable them to cast their vote in secrecy at the National Referendum;
- (h) “Publish” means make available to the public at large;
- (i) “National Referendum” means referring a proposed law, issue of national significance or amendments of the Constitution to all the registered voters by way of voting for endorsement or rejection, subject to the provision of the Constitution;
- (j) “National Referendum Period” means the period commencing on the day of the issue of Royal Proclamation under section 25 of this Act and ending on the day of the poll;
- (k) “National Referendum Constituency” means a Dzongkhag;

- (l) “Returning Officer” means an official designated by the Election Commission as per the Election Act;
- (m) Words importing the masculine gender shall include the feminine gender; and
- (n) Words importing the singular number shall include the plural number and vice versa, unless the context otherwise requires.

## **CHAPTER 2**

### **Purpose, Initiation and Conduct of National Referendum**

#### **Purpose**

3. A National Referendum shall be organised to provide an opportunity for the people of Bhutan to have their say on proposed laws, issue of national significance or amendment to the Constitution.

#### **Initiation of a National Referendum**

4. A National Referendum may be initiated:
  - (a) On the Command of His Majesty the Druk Gyalpo if He deems a Bill is of national importance but has not been passed in a joint sitting of a Parliament;
  - (b) If a petition on issue of national significance is made by not less than 50 % of the total number of members of all Dzongkhag Tshogdues; or
  - (c) By Parliament, in accordance with the provisions of the Constitution.

#### **Authority to Conduct National Referendum**

5. The Election Commission shall hold a National Referendum as provided under this Act and the Election Act.
6. The Election Commission shall have the following principal functions in relation to National Referendum:
  - (a) Promote public awareness of the National Referendum by publishing and distributing general explanation on the precise issue with a suitable title of the matter on which the National Referendum is being solicited, in such manner and by such means as the Commission considers most likely to bring them to the attention of the voters; and
  - (b) Encourage the voters to vote at the poll.

7. The Electoral Roll shall be reviewed and updated for the purpose of National Referendum by the Dzongkhag Registration Officers under the general supervision of Dzongkhag Electoral Officers, upon receiving directives from the Election Commission.
8. The final Roll of the Dzongkhag shall be displayed at the notice board of the Dzongkhag Registration Officer as well as at a prominent public place for public reference in accordance with the provisions of the Election Act.
9. The Election Commission shall not be involved in the campaigns for or against the proposed National Referendum.

## **Chapter 3**

### **Procedure**

#### **Submission of Motion**

10. The authority initiating National Referendum under section 4 of this Act shall forward the motion calling for National Referendum to the Election Commission.
11. The respective Chairmen of the Dzongkhag Tshogdues shall, in the case of section 4(b) of this Act, communicate with each other within 10 days upon emanation of an issue of national significance that needs to be petitioned for a National Referendum as per Article 32, section 2(b) of the Constitution.
12. The Chairperson of the Dzongkhag Tshogdues shall forward the motion calling for a National Referendum to Parliament.
13. The petition for a National Referendum shall be in the form of a motion stating the full name, citizenship identity card number and address of each of the members of the Dzongkhag Tshogdu who signs it.
14. Parliament on receipt of the motion under section 12 and on compliance of the condition laid down under section 4 of this Act forward the same to the Election Commission accompanied by the following:
  - (a) General explanation on the precise issue with a suitable title of the matter on which the National Referendum is being solicited;
  - (b) Text thereof in the relevant Bill, if any;
  - (c) Copy of the motion calling for the National Referendum; and
  - (d) Any other information relevant to those matters.
15. Parliament shall simultaneously submit the motion for holding of a National Referendum to the Druk Gyalpo.

### **Legality of National Referendum**

16. The motion for a National Referendum shall be subject to review by the Supreme Court as to its legality.
17. A National Referendum shall not take place if the decision of the Supreme Court, under section 16 of this Act, finds that the motion is not in accordance with the Constitution of the Kingdom of Bhutan.

### **Verification of Petition**

18. The signatures on the petition shall be verified by Parliament by tallying with the specimen signatures of the members.
19. If any duplicate signature is detected in the petition, such shall be counted as invalid.

### **Submittal Requirements**

20. Parliament shall submit the motion for a National Referendum to the Election Commission stating the:
  - (a) Precise issue with a suitable title of the matter on which the National Referendum is being solicited; and
  - (b) Provisions of the law that confers the right to seek a National Referendum.

Provided in the case of proposed amendment to the Constitution the original text of the Constitution that is to be altered or repealed must be submitted.

21. The Election Commission shall consider the wording of the precise issue and the title, and forward any views of the Commission as to its intelligibility to Parliament:
  - (a) As soon as reasonably practicable after receipt of the motion; and
  - (b) In such manner as it may determine.

22. Parliament shall on receipt of views under section 21 of this Act take appropriate measures to correct the wording of the precise issue and the title as soon as reasonably practicable and intimate the Election Commission accordingly.
23. The National Referendum issue or issues shall be framed in the manner which best elicits a clear “Yes” or “No” response.
24. A motion for a National Referendum once made cannot be withdrawn.

### **Proclamation**

25. The Election Commission shall submit the motion of National Referendum received vide section 20 of this Act to the Druk Gyalpo who shall issue a Proclamation.

### **Notification**

26. Upon Proclamation by the Druk Gyalpo, the Election Commission shall issue notification, setting out the schedule, for holding of a National Referendum.

## **Chapter 4**

### **Period for Holding a National Referendum**

27. The Election Commission shall hold a National Referendum within a period of ninety days from the date of the receipt of the motion for a National Referendum.
28. The poll for National Referendum shall generally be held in a single day and the Election Commission will determine the hours during which the poll is to be taken.
29. The Election Commission shall determine the polling stations in each Dzongkhag not less than 30 days before the date of poll.

### **Postal Ballot Arrangement for Polling and Counting**

30. Arrangement for voting at polling stations and by post, counting and declaration of results shall be made in the manner prescribed in the Election Act and the Postal Ballot Rules and Regulations of the Kingdom of Bhutan.

### **Ballot Paper**

31. In case ballot boxes are used, ballot papers shall include, next to the issue, two little squares printed, with “Yes” on one and “No” on the other.
32. Every Ballot Paper shall bear an imprint of the stamp of the Election Commission.

### **Conduct of Poll**

33. The provisions of the Election Act shall regulate the manner of assignment of the polling stations, commencement of poll, closure of poll and other such activities.
34. An eligible voter shall vote in accordance with the Election Act.
35. Voting at a National Referendum shall be in the same manner as for Parliamentary and Local Government elections except that voters vote by

- marking or stamping either “Yes” or “No” against the issue on the ballot paper.
36. If Electronic Voting Machines are used the voters shall press the “Yes” button for an affirmative vote and “No” button to reject the issue being referred.
  37. The Counting Supervisor shall, before rejecting any ballot paper as invalid, allow the observers present, a reasonable opportunity to inspect the ballot paper but without allowing them to handle it or any other ballot paper.
  38. The Counting Supervisor shall, in case ballot boxes are used, reject as invalid a ballot paper, if:
    - (a) It is blank;
    - (b) It is not duly authenticated by the Presiding Officer;
    - (c) Preference cannot be definitely determined;
    - (d) It is not handed out at the polling station;
    - (e) It is not deposited inside the valid ballot box;
    - (f) It bears a mark of identification different from the one officially provided;
    - (g) It has been tampered with or is so damaged or mutilated that its identity as a genuine ballot paper cannot be established; or
    - (h) It has been marked with an instrument not officially provided at the polling station.
  39. All political parties shall comply with standards and restrictions during National Referendums, laid down in the Election Act.

### **Counting of Votes**

40. The counting procedure shall be regulated as per the provisions of the Election Act.

41. The Counting shall be carried out by Counting Supervisors, under the superintendence of the Returning Officer at a designated place approved by the Election Commission.

### **Results**

42. The Election Commission shall declare the over-all results after tallying the result sheets forwarded by the Returning Officers of each of the constituencies.
43. The results sheet under section 42 of this Act shall include the:
  - (a) Total number of votes cast;
  - (b) Number of valid votes;
  - (c) Number of invalid ballots; and
  - (d) Number of “Yes” and “No” votes for the referred issue.
44. The matter referred for the National Referendum shall be considered as approved if endorsed with affirmative vote by a simple majority of the total number of valid votes cast in all the Dzongkhags in the Kingdom.

## **Chapter 5**

### **National Referendum Campaign**

#### **Permissible Broadcast**

45. National Referendum campaign shall be any publication or broadcast whose purpose is or may reasonably be assumed to be:
  - (a) To further any campaign conducted with a view to promote or procure a particular outcome in relation to any question asked in a National Referendum; or
  - (b) Otherwise to promote or procure any such outcome.

#### **Dissemination of Information**

46. Permitted participants may carry out National Referendum campaign from the date of issue of notification by the Election Commission under section 26 of this Act and end 48 hours before the day of the poll.
47. Permitted participants intending to publish or broadcast any National Referendum campaign materials shall submit such campaign material first to the Election Commission for endorsement.
48. The media shall devote broadcast time as specified in the Media Coverage of Elections Rules and Regulations of the Kingdom of Bhutan.
49. The media shall not include in its broadcasting services any National Referendum campaign broadcast or advertisement made on behalf of any person or body other than permitted participants.
50. The media shall not, notwithstanding section 48 of this Act, include in its services any National Referendum campaign material furnished on behalf of any person or body other than those endorsed by the Election Commission.
51. The media and permitted participants shall refrain from disseminating any form of persuasion to vote in a certain way in the media 48 hours before the poll and during the poll.

52. The Election Commission shall not provide any information on the partial results of the voting before the declaration of results.
53. No person shall, during the time of voting and before the declaration of results, publicize the voting trend.
54. Any person found guilty of violation of section 53 of this Act shall be guilty of an offence punishable under the Election Act.

### **National Referendum Expenses**

55. National Referendum expenses shall be expenses incurred by or on behalf of any permitted participants as per sections 56 and 57 of this Act for the purposes of conducting a National Referendum campaign.
56. National Referendum expenses in respect of broadcasts shall include:
  - (a) Design costs and other costs in connection with preparing or producing broadcasting materials; and
  - (b) Advertising costs.
57. National Referendum expenses in respect of advertising shall include:
  - (a) Design costs and other costs in connection with preparing, producing, distributing advertising materials or otherwise disseminating such materials;
  - (b) Anything incorporating such advertising and intended to be distributed for the purpose of disseminating it; or
  - (c) The provision of any services or facilities in connection with press conferences or other dealings with the media.

### **Limits on National Referendum Expenses**

58. Each permitted participant shall not incur National Referendum expenses exceeding an amount that may be determined from time to time by the Election Commission.

### **Filing of Returns**

59. Every permitted participant shall file a return in respect of the National Referendum expenses incurred by him or on his behalf during National Referendum period within 30 days of the completion of the poll.

## **Chapter 6**

### **General Provision**

#### **Results of National Referendum**

60. The results of a National Referendum shall be binding on all organs of the government, public and private entities.
61. The decision of a National Referendum must be implemented on being approved in the National Referendum.
62. The government must, as soon as practicable, take steps, within its competence to implement the results of the National Referendum including the following:
  - (a) Changing laws or policies, or introducing new policies, that are administered by or through the executive government; and
  - (b) Introducing legislation in Parliament during its first session after the results of such a National Referendum are known.

#### **Exclusion**

63. A National Referendum shall not be held on the question of:
  - (a) Imposition, variation or repeal of taxes;
  - (b) Declaration of a state of war;
  - (c) Proclamation or termination of emergency;
  - (d) Use of the Armed Forces abroad or within the country;
  - (e) Amnesties or pardons;
  - (f) Compulsory militia service;
  - (g) Dissolution of Parliament or Local Government;

- (h) Bills introduced for the purpose of discharging existing treaty obligations;
- (i) Independence of the courts and their decisions; or
- (j) Any matter that could undermine the effectiveness of the constitutional posts.

### **Temporary Embargo on National Referendum**

64. The convening and holding of a National Referendum shall be prohibited between the date of announcement and the completion of the elections to Parliament, or during an emergency and until thirty days following its cessation.

### **Application of the Election Act**

65. All relevant provisions of the Election Act shall apply to National Referendum as they apply to elections to Parliament.

### **Penalties**

66. Any person or organization found guilty of violation of any provision of this Act shall be dealt with in accordance to the Election Act.

### **Inherent Powers**

67. 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 or any bylaw made under this Act, and is not otherwise excluded from adjudication.

### **Amendment**

68. The motion for any amendment to this Act shall be initiated by a simple majority of the total number of members of Parliament.
69. This Act shall stand amended if the motion for amendment is passed by a simple majority of the total number of members of the respective Houses or by not less than two-thirds of the total number of members of both Houses

present and voting, in the case of a joint sitting and granted assent by the Druk Gyalpo.

70. Parliament shall have the moral responsibility to ensure that an amendment does not in any way undermine the authority and effectiveness of the Election Commission in the conduct of free and fair National Referendums.

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