

LEGAL ANNEX BHUTAN

REVIEWED LAWS:

- The Anti-Corruption Act of Bhutan, 2006
- Notification ACC-Prevention-04/2006 (Includes Guidelines to Fill Asset Declaration Form), November 9 2006
- Draft Election Bill (**)
- Draft Rule on Gifts (**)
- Blank Disclosure Form

(**) Please note that these pieces of legislation have not been approved and thus are not implemented or enforced.

Please also note that Bhutan does not yet have Standing Orders of the Parliament.

RELEVANT ARTICLES:

THE ANTI-CORRUPTION ACT OF BHUTAN, 2006

54. It shall be the duty of the Commission to:

- (a) Exercise its power and discharge its function with utmost loyalty and dedication to Tsa-Wa-Sum, unaffected by any consideration for those in position of power and influence, showing full transparency and no discrimination whatsoever in its performance;
- (b) Prepare a national strategy and programme to curb corruption and prevent misuse of public resource;
- (c) Curb and root out corruption through timely and effective monitoring of embezzlement, misappropriation or other diversion of public resource by a person for his benefit or for the benefit of another person or entity;
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- (d) Receive any complaint of corruption and investigate such a complaint as provided under this Act;
- (e) Inspect any disproportionate change in income, asset and liability of a person;
- (f) Respect, promote and protect the freedom to seek, receive, publish and disseminate information concerning corruption in accordance with the law;
- (g) Publish its annual performance report for public information;
- (h) Advise, propose measures or recommendations to appropriate authority, for the purpose of improving the performance of public service in an endeavour to prevent and control corruption;
- (i) Undertake public information and education programme;
- (j) Promote active participation of civil society, non-governmental and community-based organizations, in the prevention of corruption and the fight against it, to raise public awareness regarding the existence of,

causes and gravity of and threat posed by corruption, ultimately to foster a public culture of non-tolerance of corruption;

(k) Coordinate with public entities in particular with law enforcement agencies in combating corruption;

(l) Develop asset declaration guidelines and forms; and

(m) Carry out other functions as provided under this Act or other law.

115. Any public servant or a person serving under a non-governmental organization or such other organization using public resource who fails to declare or makes a false declaration of income, asset and liability under this Act shall be guilty of an offence of violation and liable to penalty as provided under the Penal Code of Bhutan. Failure to declare for a second time shall be a ground for termination from service.

127. A public servant or a person serving under a non-governmental organization or such other organization using public resource shall declare his income, asset and liability and that of his spouse and dependent in accordance with the guideline and form prescribed by the Commission.

128. The head of the entity as designated by the Commission shall ensure that the declaration of asset under section 127 is made in accordance with this Act.

129. A person holding the following positions shall declare to the Commission his income, asset and liability and that of his spouse and dependent within three months after taking office, annually thereafter, and three months prior to vacation of office in accordance with the guideline and form prescribed by the Commission:

(a) Prime Minister;

(b) Chief Justice of Bhutan;

(c) Speaker and members of the National Assembly;

(d) Minister;

(e) Chairperson and members of the National Council;

(f) Constitutional office holder;

(g) Secretary to the government;

(h) Ambassador and Consul;

(i) Members of the Constitutional office;

(j) Head of autonomous agency;

(k) Head of armed forces;

(l) Chief of Police;

(m) Chairperson of Dzongkhag Tshogdu, Gewog Tshogde and Thromde Tshogde;

(n) Dzongda and Drangpon;

(o) Chairperson and chief executive of corporation and financial institution;

(p) Head of an NGO and other such organization that uses public resource;

and

(q) Any other public official that the Commission may prescribe from time to time.

130. The Commission may verify the accuracy of declaration of income, asset and liability submitted by a public official as per section 129 of this Act including his spouse and dependant.

131. Violation of this requirement under section 129 shall be a ground for his impeachment or removal, as the case may be except that no person shall be imprisoned on an administrative decision.

132. Upon application to the Commission or the concerned organization and subject to its satisfaction that such information will not be used maliciously but for the interest of the general public, access to such declaration may be allowed.

NOTIFICATION ACC-PREVENTION-04/2006 (INCLUDES GUIDELINES TO FILL ASSET DECLARATION FORM), NOVEMBER 9 2006

3. If spouse(s) and children are employed, declarations can be made to their respective organizations and need not be included in the declaration.

4. The declaration shall be submitted within three months upon taking office, updated annually thereafter and three months prior to vacation of office. Annual declaration shall be made from 1st of November to end of December.

5. The declaration shall be confidential. However, in accordance to section 50 of the AC Act, upon application to the Commission and subject to its satisfaction that such information will not be used maliciously but for the interest of general public, access to such declarations may be allowed.

6. In accordance to section 130 of the AC Act, the Commission may verify the accuracy of declaration of income, asset and liability submitted by a public official including his spouse(s) and dependant.

7. As per the section 54 (e) of the AC Act, the Commission may inspect any disproportionate change in income, asset and liability of a person.

8. In accordance to section 115 of the AC Act, failing to declare or making false declaration is guilty of an offence and liable for penalty as provided under the Penal Code of Bhutan.

ACC/PREVENTION-04/2006 November 9, 2006

NOTIFICATION

Asset declaration has been a requirement for civil servants since late 80's. With the enactment of the Anti-Corruption Act of Bhutan 2006 (AC Act), it is now mandatory for all public

officials/individuals to declare income, asset and liabilities including that of their spouse(s) and dependants.

The holder of following public positions shall make their declaration to the office of the

ACC:

- Prime Minister, Chief Justice of Bhutan and Speaker of the National Assembly;
- Ministers, Constitutional office holders, Secretaries to the government, Members of National Assembly, Ambassadors and Consuls;
- Heads of autonomous agencies and armed forces, Dzungda and Drangpon;
- Chairpersons of Dzongkhag Tshogdu, Geog Tshogde and Thromde Tshogde; and
- Chairpersons and Chief Executives of Corporations and Financial Institutions.

Similarly, other civil servants and **officials/individuals serving in any organization – public,**

private and NGOs using public resources shall submit their declarations to the heads of

their respective organizations.

The declaration shall be made in the prescribed form which is circulated or downloaded from the

ACC webpage www.anti-corruption.org.bt. **The annual declaration shall be made from**

November 1 to December 31. Civil servants, who have already submitted their declarations

as per the BCSR 2006 need not declare again. However, for uniformity they shall declare their

asset as per ACC's guidelines and form, hereafter.

The category of public officials, making declaration to the ACC for 2006 must reach the

ACC office, latest by 31 December 2006.

In accordance to sections 115 and 128 of the AC Act, the ACC designates the heads of organizations to take the responsibility to ensure timely and accurate submission of declarations by

their employees. Concerned individuals are requested to make correct declarations. It may be noted

that non-submission or inaccurate declaration is an offence under the AC Act and liable for penalty

as provided under the Penal Code of Bhutan.

This notification is issued in accordance to sections 127 and 129 of the AC Act. For more details,

refer to the attached guidelines.

Chairperson

Anti-Corruption Commission

ROYAL GOVERNMENT OF BHUTAN

ANTI-CORRUPTION COMMISSION

"NATION'S CONSCIENCE"

THIMPHU, BHUTAN

FIGHTING CORRUPTION IS A COLLECTIVE RESPONSIBILITY

THIMPHU BHUTAN, POST BOX No: 1113, TEL: 00975-2-334863/64/66/67/68/69, FAX No: 00975 -2-334865

Guidelines to Fill Asset Declaration Form

1. In accordance to sections 127 and 129 of the Anti-Corruption Act of Bhutan 2006 (AC Act), a

person holding public position shall declare his/her income, assets and liabilities and that of his/her spouse(s) and dependants in the Form comprising four parts:

Part A - General Information;

Part B - Declaration of Income, Asset and Liabilities;

Part C - Income Statement; and

Part D - Liabilities.

2. Public officials are divided into two groups:

Group 1: Holders of public positions – *will make their declaration to the Anti-Corruption*

Commission

- Prime Minister, Chief Justice of Bhutan and Speaker of the National Assembly;
- Ministers, Constitutional office holders, Secretaries to the government, Members of National Assembly, Ambassadors and Consuls;
- Heads of autonomous agencies and armed forces, Dzungda and Drangpon;
- Chairpersons of Dzungkhag Tshogdu, Geog Tshogde, Thromde Tshogde;
- Chairpersons and Chief Executives of Corporation and Financial Institutions; and
- Any other public official the Commission may prescribe from time to time.

Group 2: Employees of public organization, non-governmental and other such organizations using public resources - *will make their declaration to the heads of their respective*

organizations.

3. If spouse(s) and children are employed, declarations can be made to their respective organizations and need not be included in the declaration.

4. The declaration shall be submitted within three months upon taking office, updated annually

thereafter and three months prior to vacation of office. Annual declaration shall be made from

1st of November to end of December.

5. The declaration shall be confidential. However, in accordance to section 50 of the AC Act,

upon application to the Commission and subject to its satisfaction that such information will not be used maliciously but for the interest of general public, access to such declarations may be allowed.

6. In accordance to section 130 of the AC Act, the Commission may verify the accuracy of declaration of income, asset and liability submitted by a public official including his spouse(s) and dependant.

7. As per the section 54 (e) of the AC Act, the Commission may inspect any disproportionate

change in income, asset and liability of a person.

8. In accordance to section 115 of the AC Act, failing to declare or making false declaration is

guilty of an offence and liable for penalty as provided under the Penal Code of Bhutan.

9. Following explanatory notes facilitate in filling up the declaration form:

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Part A – General Information

I Reason for Declaration: Tick mark () to indicate the reason for this declaration.

II Details of the Declarant

Name: write full name as used in the citizenship identity card.

ID Card No.: identification number given by civil registration and census.

Place of Birth: place of birth.

Date of Birth: date as indicated in the citizenship identity card.

Martial Status: mention married, unmarried or widowed.

Present Address: mention the full address.

Part B – Declaration of Income, Assets and Liabilities

If you or your spouse(s) or your dependants own assets, provide details under relevant Tables 1-7

given below:

Table 1: Immovable property

Type of property: means land, building, and house/flat of a building.

Plot or Thram No.: registration number of the land/plot/flat/building.

Location: place where the property is situated with proper address.

Market value: value at the time of acquisition.

Mode & when acquired: mention whether purchased, inherited, gifted and the corresponding date.

Table 2: Shares and stocks declaration form

Certificate Number/Central Depository (CD) Code: Share(s) certificate / CD number owned

and held in a securities account.

Number of shares: Mention number of shares that you own.

Table 3: Vehicles/machineries

Type of vehicle/machineries: includes motor vehicles, earth moving and other heavy construction equipment.

Table 4: Interest bearing deposits

Types of deposit: specify whether it is fixed, recurrent or savings deposits.

Table 5: Convertible assets such as the work of art, jewellery, gold and other objects of value exceeding a total value of Nu. 100,000/=

Description of the item: Work of art could be antiques, religious and decorative items, etc., and

other objects could be household items, furniture exceeding a total value of Nu.100,000/= per item.

Table 6: Commercial activities and other properties rights

Type of activity: specify commercial activities like business in construction, Information Technology, manufacturing, services, retail, consultancy, etc.

Table 7: Other assets and activities not specified (if any)

Mention income source, assets and activities not covered in the above.

Part C – Income statement

Please indicate income statement in the provided table.

Part D – Liabilities

Name of debtor: name of the person who availed loan or mortgage.

Creditor (Name of the Financial Institution): write name of the financial institution from where loan has been availed.

Expenditure on childrens' education: please provide details on childrens' education in the table.

Other investments if any not covered above, please specify: please give details of other expenditures which are liabilities and not covered above.

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Part A – General information

I. Reason for Declaration (tick)

- i) Appointment
- ii) Annual declaration
- iii) Vacation of office
- iv) Any other reason

II. Details of declarant

Name ID Card

No.

Place of

Birth

Date of

Birth

Marital

Status

Contact Address (Phone, e-mail)

III. Details of spouse(s)

Name

ID Card

No.

Place of Birth Date of

Birth

Contact Address

(Phone, e-mail)

If employed, name of the organization

IV. Details of Children & dependants

Name

ID Card

No.

Relationship Date of

Birth

Contact Address

(Phone, e-mail)

If employed, name of the organization

Part B – Declaration of income, assets and liabilities

If you or your spouse(s) or your dependants own assets, please provide details under the relevant sections of Tables 1-7 given below:

Table 1: Immovable property

Acquisition Name of the on registered owner

Type of Property Plot or Thram

No. Location Estimated market value

Mode & when acquired Source of finance, if purchased

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Table 2: Shares and stocks

Acquisition Name of the on registered owner

Certificate Number /CD

Number No. of Shares

/ stocks Name of company or business

Estimated market value

Mode & when acquired Source of finance, if purchased

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Table 3: Vehicle/machineries

Acquisition Name of the registered owner

Type of vehicle/ machineries

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**Model &
year of
manufacture
Registration
No.
Estimated
value
Mode &
when
acquired
Source of finance, if
purchased**

Table 4: Interest bearing deposits

**Name of the
owner
Types of
deposits
Account
No.
Bank/Financial
Institutions/ Companies
Amount Mode of acquisition**

Table 5: Convertible assets such as the works of art, jewellery, gold, and other objects of

value, exceeding a total value of Nu.100,000/=

**Acquisition
Name of the
owner
Description of the
item
Estimated
value
Mode & when
acquired
Source of finance, if
purchased**

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Table 6: Commercial activities and other property rights

**Acquisition
Name of the
registered owner
Type of activity Estimated
value
Mode & when
acquired
Source of finance, if
purchased**

Table 7: Other assets and activities not specified (if any)

**Acquisition
Name of the on
owner
Types of
assets/activities**

**Estimated
Value Mode & when
acquired
Source of finance,
if purchased
Remarks if any**

Note:

1. Immovable property means land, building, and house.
2. Name of the registered owner/owner means the declarant, declarant's spouse(s) or dependants.
3. Dependant means an individual including children entirely dependent on earnings of the declarant.
4. Mode of acquisition means how the assets were acquired i.e purchased, inherited, gifted, etc.

Part C - Income statement

Please indicate your gross income from the following sources for the previous one year.

Types of Income Declarant Spouse(s) Dependants

1 2 1 2 3

Total

Income from
employment
Income from
consultancy
Rental income from
land & building
Interest income from
deposits & securities
Income from
shareholdings
Income from hire of
vehicles/ machineries or
any other property
except land & building.
Any other incomes not
specified above
Grand Total

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Part D – Liabilities

Loans, mortgages, etc.

**Name of Debtor Creditor (Name of
Financial Institution)**

Loan Amount Loan

Outstanding

Remarks if any

Expenditure on childrens' education

Name of child Name of Institute, place Course Annual

Expenditure

Remarks if any

Other investments if any not covered above, please specify

Declaration:

I hereby declare that the information given in this Form is true and correct to the best of my

knowledge. In case any information is found incorrect, I assume full responsibility thereof and shall be liable for prosecution as per the section 115 of the Anti-Corruption Act of Bhutan 2006.

(Name and signature of the Declarant) Date:

Countersigned by spouse(s)

1. (Name and signature) Date:

2. (Name and signature) Date