

འབྲུག་གི་ཚུན་དང་ཉེས་ཚུན་བཟུང་བའི་གནད་སྲོད་ཀྱི་ཁྲིམས་འདུལ་
(འཕྲི་སྲོལ) བཅའ་ཁྲིམས་ ༢༠༡༡ ཅན་མ།



**THE CIVIL AND CRIMINAL PROCEDURE CODE
(AMENDMENT) ACT OF BHUTAN 2011**



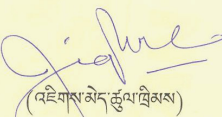
PARLIAMENT OF BHUTAN

ཨོན་ཨེ་ཤེ/ཨོས་ཤི-04/2011/ 134

སྤྱི་ཚེས་ 14-2-2011 ལྷ།

3 དང་ཁྲིམས་ལྷན་མཉེན་པུ་ཡིན་པ་མི་ཇི་འབྲུག་གི་ཁྲིམས་སྤྱི་སྤྱོད་མཚོན་ལྷ།

ལྷ་འབྲས་ དེ་ནི་ སྤྱི་ལོ་ 2011 ཟླ་ 4 པའི་ཚེས་
 24 ལྷ་ སྤྱི་ཚོགས་ལྷན་བཞུགས་ཐོག་ ཆ་འཛོགས་གྲུབ་པའི་ **འབྲུག་གི་ཞི་ཚོན་དང་ ཉེས་ཚུན་བྱ་བའི་གོད་སྤོང་གི་ཁྲིམས་པེབ་**
(འཕྲི་སྤྱོད་)བཅའ་ཁྲིམས་ 2011 ཚན་མ་དེ ཅུ་ཁྲིམས་ཚེན་མཉེན་ཅུ་ཚེན་ 13.11 པའི་དགོངས་དོན་ལྷ་མི་དབང་མངའ་
 བདག་པུ་ཚེད་ལོ་ཆེད་ཞབས་ལས་ རང་ལྷགས་གནམ་ལོ་ལྷགས་མོ་ལོས་ལོ་ཟླ་ 4 པའི་ཚེས་ 2 ལྷ་འབྲས་ སྤྱི་ལོ་ 2011 ཟླ་
 2 པའི་ཚེས་ 4 ལས་འགོ་བཟུང་ སྤྱི་ཚོགས་ཀྱི་གོས་ཚོན་དང་འཁྲིལ་ཏེ་ བསྐྱར་སྤོང་འབད་དགོ་པའི་བཀའ་བཟམ་གནང་
 ཡོད་པ་བཞིན་དུ་ དེར་ལྷན་མཉེན་མངའ་ཁྲུལ་གི་ ཁྲིམས་འདུན་ཡོངས་ཀྱིས་ དང་སྐངས་མཛད་གནང་དགོ་པའི་སྤྱི་སྤྱོད་ལྷ་བ་
 རང་ལྷགས་གནམ་ལོ་ལྷགས་མོ་ལོས་ལོ་ཟླ་ 4 པའི་ཚེས་ 14 ལྷ།


 (འཛིགས་མེད་ཚུལ་ཁྲིམས་)
ཚོགས་དྲོན་པ།

- 15 1. **གཞུང་སྤོང་དུ་ཡིན་པ་མི་ཇི་སྤོན་ཚེན་མཚོན་ལྷ།** སྤྱི་སྤྱོད་པ།
2. རྒྱལ་ཡོངས་ཚོགས་མཉེན་པུ་མི་ཇི་ཇི་འཛིན་མཚོན་ལྷ། སྤྱི་སྤྱོད་པ།
 3. མངའ་བདག་དུང་ཚེན་ལྷ། སྤྱི་སྤྱོད་པ།
 4. རྒྱལ་ཡོངས་ཚོགས་འདུན་ཡོངས་ཁྲུལ་དུང་ཚེན་ལྷ།

TABLE OF CONTENTS

	Page
Short Title, Commencement and Extend	1
In the Code, Section 4 (d) is amended	1
In the Code , Section 9 (d) is amended	2
In the Code, Section 10 (b) is amended	2
In the Code, Section 13 is amended	2
In the Code, Section 13.1 is amended	3
In the Code, Section 13.3 is amended	3
In the Code, Section 14 is amended	3
In the Code, Section 14.1 is repealed	4
In the Code, Section 15 is amended	4
In the Code, Section 18 is amended	4
In the Code, Section 29 is amended	4
In the Code, Section 42 (b) is amended	5
In the Code, Section 42.1 is amended	5
In the Code, after Section 96 a new section is inserted	5
In the Code, Section 97 is amended	5
In the Code, Section 98 is amended	5
In the Code, Section 99.6(c) is amended	6
In the Code, Section 101.3 is repealed	6
In the Code, Section 107.1 is amended	6
In the Code, Section 112 is repealed	6
In the Code, Section 114 is repealed	6
In the Code, Section 148.1 is amended	6
In the Code, Section 150 is amended	6

In the Code, Section 153.1 is amended

	7
In the Code, Section 171 is amended	7
In the Code, Section 178 is amended	7
In the Code, Section 178.1 is amended	7
In the Code, Section 186 is amended	7
In the Code, Section 186.1 is amended	8
In the Code, Section 191.1 is amended	8
In the Code, after Section 191.1, a new section is inserted	9
In the Code, Section 194 is amended	9
In the Code, Section 195.1 is amended	9
In the Code, Section 197.3 is amended	9
In the Code, after Section 199.8 , a new Section is inserted	10
In the Code, Section 205 is amended	10
In the Code, Section 208(a) is repealed	10
In the Code, after Section 212, a new Section is inserted	10
In the Code, the title of Chapter 44 is amended	11
In the Code, the sub-title before Section 213 is repealed	11
In the Code, Section 213 is repealed	11
In the Code, Section 213.1 is repealed	11
In the Code, Section 213.2 is repealed	11
In the Code, After Section 213.2 (e) a new section is inserted	12
In the Code, Section 214 is amended	12
In the Code, Section 215 is amended	12

THE CIVIL AND CRIMINAL PROCEDURE CODE (AMENDMENT) ACT OF BHUTAN 2011

An Act to amend the Civil and Criminal Procedure Code of Bhutan 2001.

Parliament of the Kingdom of Bhutan do hereby enact the Civil and Criminal Procedure Code(Amendment) Act of Bhutan 2011 on the 23rd Day of the 3rd Month of Iron Female Rabbit Year of the Bhutanese Calendar corresponding to the 25th Day of May, 2011 at its 7th Session of the First Parliament as follows:

Short Title, Commencement and Extent

1. This Act shall:
 - a) Be called **THE CIVIL AND CRIMINAL PROCEDURE CODE (AMENDMENT) ACT OF BHUTAN 2011;**
 - b) Come into force on the 4th Day of the 5th Month of Iron Female Rabbit Year of the Bhutanese Calendar corresponding to the 5th Day of July, 2011; and
 - c) Extend to the whole of Bhutan.
2. **In the Civil and Criminal Procedure Code of Bhutan 2001, hereinafter referred to as the Code, Section 4 (d) is amended as :**

“protecting the privacy of a child in conflict with law;
and”

3. In the Code , Section 9 (d) is amended as :

“have four *Drangpons* appointed by the Druk Gyalpo by warrant under His hand and seal in consultation with the National Judicial Commission”.

4. In the Code, Section 10 (b) is amended as :

“have eight *Drangpons* appointed by the Druk Gyalpo by warrant under His hand and seal on the recommendation of the National Judicial Commission;”

5. In the Code, Section 13 is amended as :

“The Druk Gyalpo shall, by warrant under His hand and seal, appoint:

- a) the Chief Justice of Bhutan, in consultation with the National Judicial Commission;
- b) *Drangpons* of the Supreme Court, in consultation with the National Judicial Commission; and
- c) Chief Justice and *Drangpons* of the High Court, upon the recommendation of the National Judicial Commission”.

6. In the Code, Section 13.1 is amended as :

“The Chief Justice of Bhutan shall appoint *Drangpons* of the *Dzongkhag* and *Dungkhag* Courts, upon the recommendation of the Royal Judicial Service Council”.

7. In the Code, Section 13.3 is amended as :

“After receiving the warrant of appointment from the Druk Gyalpo, the Chief Justice shall administer an “oath of Allegiance and Secrecy” before a court and obtain a written pledge as follows:

“ I.....in the name of the *Tripple Gem* and the guardian deities of the Kingdom of Bhutan do solemnly swear and affirm that I will faithfully perform the duties of my office without fear and favour, affection or ill-will and will to the best of ability, preserve, protect and defend Tsa-Wa-Sum with *Tha Damtsi and Ley Jumdrey*,”

8. In the Code, Section 14 is amended as :

“The Druk Gyalpo shall appoint members of the National Judicial Commission by warrant under His hand and seal. The National Judicial Commission shall comprise:

- a) The Chief Justice of Bhutan as Chairperson;
- b) The senior most *Drangpon* of the Supreme Court;
- c) The Chairperson of the Legislative Committee of the National Assembly; and
- d) The Attorney General”.

9. In the Code, Section 14.1 is repealed.

10. In the Code, Section 15 is amended as :

“The independence of the *Drangpons* of the Supreme Court and the High Court shall be guaranteed, provided that a *Drangpon* may be censured or suspended by a command of the Druk Gyalpo on the recommendation of the National Judicial Commission for proven misbehavior, which, in the opinion of the Commission, does not deserve impeachment”.

11. In the Code, Section 18 is amended as :

“Where a question of law or fact is of such a nature and of such public importance that it is expedient to obtain the opinion of the Supreme Court upon it, the Druk Gyalpo may refer the question to that Court for its consideration. The Court shall hear the reference and submit to the Druk Gyalpo its opinion thereon”.

12. In the Code, Section 29 is amended as :

“The Royal Courts of Justice shall apply International Conventions, Covenants, Treaties and Protocols that are duly acceded to by the Royal Government of Bhutan and ratified by the Parliament of Bhutan”.

13. In the Code, Section 42 (b) is amended as :

“daily allowance at the prevailing rate prescribed by the minimum wage”.

14. In the Code, Section 42.1 is amended as :

“If the Court summoned the witness *sua sponte*, after considering it necessary, expedient or otherwise in the interest of justice to do so, the Government shall pay reasonable travelling fare and daily allowance at the prevailing rate prescribed by the minimum wage”.

15. In the Code, after Section 96 a new section is inserted, namely:

“Section 96A

The judgment of the Court shall be made accessible in the public domain which shall include libraries”.

16. In the Code, Section 97 is amended as :

“It shall be the discretion of the Court based on the outcome of a case to determine an appropriate assignment of costs and other expenses related to the suit”.

17. In the Code, Section 98 is amended as :

“The Court may order a defaulting party to pay costs to the attending party calculated at the rate prescribed under the minimum wage”.

- 18. In the Code, Section 99.6(c) is amended as :**
“agricultural land to the extent of minimum acre ceiling prescribed by the Land Act of Bhutan;”
- 19. In the Code, Section 101.3 is repealed.**
- 20. In the Code, Section 107.1 is amended as :**
“Finding of civil contempt shall result in fine/imprisonment until the civil order has been complied with. However, for the monetary case the person shall be imprisoned for a number of years calculated based on value based sentencing.”
- 21. In the Code, Section 112 is repealed.**
- 22. In the Code, Section 114 is repealed.**
- 23. In the Code, Section 148.1 is amended as :**
“Such person shall be, in the case of a child, be represented by the parents / family member / guardian / *Jabmi*”.
- 24. In the Code, Section 150 is amended as :**
“At any stage of the proceedings, it shall be open to the parties to take the help of members of the concerned Local Government *or Barmi* as mediators for mutual settlement of a civil case in accordance with the requirements of this Code”.

25. In the Code, Section 153.1 is amended as :

“The party may be liable for such costs as the Court may award calculated in accordance with the minimum wage”.

26. In the Code, Section 171 is amended as :

“A search shall be made in the presence of one or more members of the concerned Local Government or any other competent witness”.

27. In the Code, Section 178 is amended as :

“A vehicle/aircraft/vessel/train/conveyance may be searched where reasonable cause exists or upon the arrest of the driver/pilot/passenger”.

28. In the Code, Section 178.1 is amended as :

“If the vehicle/aircraft/vessel/train/conveyance itself is being subjected to a valid warranted search, closed containers found in the vehicle/aircraft/vessel/train/conveyance may be searched without a warrant”.

29. In the Code, Section 186 is amended as :

“The Court may order an accused to be remanded to police/judicial custody, if there exists reasonable cause

that he/she has perpetrated a crime, within the limits prescribed by this Code”.

30. In the Code, Section 186.1 is amended as :

“The Court may, depending on the nature of the crime, order the accused to be released on bail, in lieu of detention”.

31. In the Code, Section 191.1 is amended as :

“The Court, prior to the preliminary hearing, may from time to time authorize the detention of the accused for a reasonable duration calculated from the date of issuance of the first remand order which in the whole shall not exceed:

- (a) Forty nine days, if satisfied that adequate grounds exist for doing so; and
- (b) One hundred and eight days, where the investigation relates to a heinous crime”.

- 32. In the Code, after Section 191.1 , a new section is inserted, namely :**

“Section 191.2

A person detained prior to conviction under this Code shall have the rights of access to and advice from a *Jabmi* and of access to family members”.

- 33. In the Code, Section 194 is amended as :**

“Persons accused of the same offence or any offence that can be reasonably construed to have been committed during the same criminal transaction may be charged and presented together in the Preliminary Hearing except child in conflict with law”.

- 34. In the Code, Section 195.1 is amended as :**

“In the case of child in conflict with law, his/her parents/member of family/legal guardian/*Jabmi* may make a plea of guilty or *Nolo Contendere* only in the best interest of the child in conflict with law”.

- 35. In the Code, Section 197.3 is amended as :**

“Before confirming a plea bargain, the prosecution shall determine whether the defendant is mentally competent

and is a child in conflict with law, and if so is represented by parent/member of a family/legal guardian/ *Jabmi*, and understands:”

36. In the Code, after Section 199.8 , a new Section is inserted, namely:

“Section 199.8A

Non-Bailable Offence

The Court shall not grant bail to a person who has been charged with;

- (a) an offence against the security and sovereignty of the country; and
- (b) an offence of or above felony of the second degree”.

37. In the Code, Section 205 is amended as :

“The prosecution may move the Courts for new trials based on newly discovered evidence or on other grounds”.

38. In the Code, Section 208(a) is repealed.

39. In the Code, after Section 212, a new Section is inserted, namely:

“Section 212A

A person detained and acquitted thereof or subjected to unlawful detention is entitled to be compensated for the

loss of income caused by the criminal proceedings or unlawful detention and to be reinstated at the former place of work”.

- 40. In the Code, the title of Chapter 44 is amended as :
“Miscellaneous”**
- 41. In the Code, the sub-title before Section 213 is repealed.**
- 42. In the Code, Section 213 is repealed.**
- 43. In the Code, Section 213.1 is repealed.**
- 44. In the Code, Section 213.2 is repealed.**
- 45. In the Code, after Section 213.2 (e) a new section is inserted namely:**

“Section 213.3

Amendment

The amendment to this Act by way of addition, variation or repeal shall be effected by simple majority of the respective Houses or vote of no less than two-thirds of the total members of Parliament present and voting on a

motion submitted by one-third of the members of either House”.

46. In the Code, Section 214 is amended as :

“In any instance of a difference in meaning between the Dzongkha and the English texts of this Act, Dzongkha text shall be regarded as the authoritative text”.

47. In the Code, Section 215 is amended as :

“*Drangpons* of the:

- a) *Dungkhag and Dzongkhag* Court shall be addressed as Judges in English; and
- b) High Court and Supreme Court shall be addressed as Justices”.