

## **Rules of Procedure of the Royal Judicial Service Council 2022**

In exercise of the power conferred by Section 44 of the Judicial Service Act 2007, the Judiciary of Bhutan hereby promulgates the Rules of Procedure of the Royal Judicial Service Council 2022.

### **Short Title, Commencement and Extent**

1. This Rule shall be called the Rules of Procedure of the Royal Judicial Service Council (Council) 2022.
2. The Rule shall come into force on..... corresponding to the ..... day of the Bhutanese Calendar.
3. The Rule shall apply to all of the organization, responsibilities and proceedings of the Council, as authorized by the provisions of the Judicial Service Act 2007 (Act).

### **Purpose**

4. The purpose of this Rule is to lay down the procedure for the conduct of the business of the Council.

## **Chapter I**

### **Royal Judicial Service Council**

5. The Council shall be the highest decision-making body for the Judicial Service Personnel and shall be composed of seven Members consisting:
  - a) One sitting Drangpon of the Supreme Court, as the Chairperson of the Council;
  - b) The Chief Justice of the High Court, as the Deputy Chairperson of the Council;
  - c) The Registrar General of the Supreme Court, as the Member Secretary of the Council;
  - d) The Registrar General of the High Court;
  - e) Two Drangpons of the Dzongkhag Court; and
  - f) One Drangpon of the Dungkhag Court.

6. The seal of the Council shall be authenticated by the signature of its Chairperson or Deputy Chairperson or by the signature of the Member Secretary in case both the Chairperson and Deputy Chairperson are not available.
7. The Council shall, subject to the provisions of the Act and this Rule, be independent in the exercise of its functions and shall discharge its functions without fear or favour.
8. The seat of the Council shall be at the Supreme Court of Bhutan.
9. The Drangpon of the Supreme Court, appointed as a member of the Council, shall not simultaneously be a member of the National Judicial Commission.
10. The Drangpons of the Tachhog, Khading and Maja Bench of the Supreme Court shall serve as a Member of the Council for a period of two years on a rotational basis.
11. The Chief Justice of Bhutan shall appoint one Drangpon from the aforementioned benches as the Member of the Council by warrant under his hand and seal within seven working days from the day of expiry of the term of the preceding member Drangpon from the Supreme Court.

### **Powers, Functions and Responsibilities**

12. The Council shall formulate personnel policies for judicial bodies, institutions and Courts concerning:
  - a. Organization, administration, staffing pattern and strength, classification and gradation of services;
  - b. Creation and abolition of posts other than that of the Supreme Court and the High Court Drangpon;
  - c. Higher or continuing legal education;
  - d. Performance evaluation and appraisal;
  - e. Reward and incentive for meritorious and exemplary service;

- f. Improvement of judicial process through court management and material management;
  - g. Judicial Personnel Selection Examinations; and
  - h. Any other matter which may be prescribed.
13. The Council shall review the personnel policies from time to time to ensure such policies are in keeping with the changing situations and propose amendments and modifications as and when necessary.
14. The Council shall make rules for the judicial bodies, institutions and Courts concerning:
- a. Formulation, review, execution and ensure a rational system of administration in the matters of selection, recruitment, appointment, transfer, promotion, tenure, incentives and other incidents of employment;
  - b. Human resource development;
  - c. Recruitment of personnel whether regular, contractual or on deputation to posts against which recruitment may be permanent, semi-permanent or temporary;
  - d. Fixation of pay and allowances and other related matters pertaining to emoluments in parity with the other Civil Service Personnel of Bhutan;
  - e. Travel and tours in parity with the other Civil Service Personnel;
  - f. Welfare and benefits including medical benefits, provident fund, pension, gratuity and all other in-service and post-service benefits in parity with other Civil Service Personnel;
  - g. Working conditions including timing, health and safety regulations and all other conditions necessary to promote efficiency and effectiveness;
  - h. Lay-off, premature retirement, removal, discharge and dismissal;
  - i. Sanction of extraordinary leaves;
  - j. Review and scrutiny of personnel actions; and
  - k. Any other matter which may be prescribed.
15. The Council or any of its committees, to which its powers have been delegated, shall carry out its functions in a fair and equitable manner.

16. The Council shall review laws from time to time and submit them to Parliament to ensure that they are in keeping with the changing situation and propose amendments and modifications as and when necessary.
17. The Chairperson of the Council shall be responsible for:
- a) Directing and providing general guidance for the Council, as well as representing the Council in its relations with judicial and state bodies and other organizations;
  - b) Convening and presiding over all meetings of the Council;
  - c) Enforcing Rules for the orderly conduct of the meetings;
  - d) Preserving dignity and decorum in meetings and maintaining discipline amongst the Members;
  - e) Maintaining authority of the Council and protecting its rights, traditions, and privileges;
  - f) Ruling on questions relating to the order of conduct and practice of the Council;
  - g) Approving all plans of the Council;
  - h) Determining the issues to be submitted for the consideration of the Council and finalizing the agenda to be deliberated in the Council meeting;
  - i) Signing recommendations, resolutions, decisions and other documents of the Council;
  - j) Ensuring compliance with the resolutions and decisions of the Council; and
  - k) Performing any other organizational and administrative functions of the Council befitting the integrity of the Council.
18. In absence of the Chairperson, the Deputy Chairperson shall act in place of and exercise and perform all powers, functions, and responsibilities of the Chairperson.
19. The Member Secretary of the Council shall be responsible for:

- a) The general working and the efficient conduct of the business of the Council;
- b) Organizing the activities of the Council Secretariat;
- c) Listing of issues, submitted for consideration at the upcoming meeting, and reporting them in advance to the Chairperson;
- d) Keeping the minutes of meetings, recommendations, resolutions or decisions adopted by the Council;
- e) Communicating with Council Members and the Judicial Service Personnel from time to time in accordance with this Rule and as and when the Chairperson or Council may direct;
- f) Executing the instructions and decisions of the Chairperson of the Council.
- g) Preparing the Council's budget and administering its funds with oversight from the Chairperson;
- h) Arranging and providing logistical requirements for the Council;
- i) Preparing Annual Reports of the Council's activities for presentation by the Council to the Chief Justice of Bhutan;
- j) Exercise all powers, functions, and responsibilities of the Chairperson in absence of both Chairperson and Deputy Chairperson; and
- k) Performing such other duties as this Rule and the Council may require from time to time.

20. The Registrar General of the High Court shall be the Member Secretary to the Council in the absence of the Registrar General of the Supreme Court and shall exercise all powers, functions, and responsibilities.

## **Chapter II**

### **Appointment of Members from the Dzongkhag and Dungkhag Courts**

21. The Chief Justice of Bhutan shall appoint two Drangpons of the Dzongkhag Courts and one Drangpon of the Dungkhag Courts as the Members of the Council for a term of two years.

22. The appointments of the Members of the Council must strive to achieve a proportional gender representation amongst others.
23. The Chief Justice of Bhutan shall appoint Drangpons of the Dzongkhag Court and Dungkhag Courts as the Members of the Council from amongst the Drangpons having high moral character and professional acumen and qualities, amongst other considerations, determined through the Judicial Performance Review and Evaluation Rules.
24. The Office of the Registrar General shall remind the Chief Justice of Bhutan about the expiry of terms of the Members of the Council no later than one month before the expiry of the term of the Members of the Council.
25. The Member Drangpons of the Dzongkhag and Dungkhag Courts shall be appointed as the Members of the Council within one month from the expiry of the term of the previous Members to the Council.
26. The term of the Member Drangpons of the Dzongkhag and Dungkhag Courts shall begin from the day of appointment as the Member of the Council by the Chief Justice of Bhutan.
27. No Drangpon shall be appointed as a Member of the Council for more than two terms in his or her entire service.
28. No Drangpon shall serve as a Member of the Council consecutively for two terms.
29. The mandate of a Member of the Council shall be terminated before the expiry of his or her term:
  - a) Upon cessation of the function by virtue of which he/she was appointed to the Council;
  - b) In the event he or she is appointed as a Drangpon to a higher court;
  - c) By resignation from the Membership;
  - d) Upon removal from the membership;

- e) By the death of the Member; or
  - f) Due to physical or mental incapacity making the continuance of the term of Membership impossible.
30. No Member may be allowed to resign from the Membership of the Council except with the approval of the Chief Justice of Bhutan.
31. The Council shall acknowledge the termination of the mandate of a Council Member and shall report the matter to the Chief Justice of Bhutan.
32. In the event the mandate of a Council Member is terminated prior to the expiration of the term, the procedure for appointing a new Member shall be initiated in accordance with the provisions of this Rule.
33. Upon appointment to the Council, each Member shall take an Oath or Affirmation of Office and Oath or Affirmation of Secrecy to faithfully discharge all the duties as a Member of the Council. Such oath shall be administered by the Chief Justice of Bhutan in the presence of Lam Sungkhorp of the Judiciary of Bhutan.

### **Chapter III**

#### **Secretariat**

34. There shall be a Secretariat under the aegis of the Member Secretary that shall be responsible for:
- a) Attending Council meetings unless otherwise prohibited by the Council;
  - b) Coordinating correspondences and communicating with the Members of the Council from time to time in accordance with this Rule and as the Chairperson and Member Secretary may direct;
  - c) Minuting the proceedings of the Council Meetings;
  - d) Keeping custody of a book, document, and records of Council proceedings;

- e) Assisting in the formulation of the studies and reports required by the Council;
- f) Preparing annual and financial reports as directed by the Council; and
- g) Performing any other functions assigned by the Council.

35. The officials of the Secretariat may include relevant Personnel from the Human Resource and Accounts Divisions and those with legal backgrounds among others from the office of the Registrar General of the Supreme Court.

#### **Chapter IV**

##### **Meetings of the Council**

36. The Council shall meet at least twice a year and the meetings shall be convened in June and December.

37. Whenever necessary, the Chairperson shall convene an additional meeting of the Council on the instruction of the Chief Justice of Bhutan or the motion of a simple majority of the total strength of the Council.

38. During an additional meeting, the Council shall consider only those matters for which it has been convened.

39. The Chairperson shall summon every meeting of the Council.

40. The Chairperson shall strive to ensure the presence of at least one Dzongkhag or Dungkhag Court Member in every meeting of the Council.

41. Unless the Chairperson otherwise directs, all the meetings shall be held at the Royal Judicial Service Council Hall in the Supreme Court of Bhutan.

42. The deliberations of the Council shall be held, to the extent possible, in Dzongkha.



43. The quorum for any meeting of the Council shall not be less than two-thirds of the total strength of the Council.
44. The Secretariat, under the direction and approval of the Chairperson, shall send a notice of a meeting to the Members at least fifteen days before the date of the meeting. The notice of meeting shall specify the time, place and draft agenda.
45. When a meeting is called at a short notice, the Secretariat shall accordingly apprise the Members through telephone and inform them about the date, place and draft agenda.
46. The Chairperson shall inform the Chief Justice of Bhutan of the date, place and draft agenda of the meeting before the commencement of every meeting.
47. There shall be a roll of Members of the Council which shall be signed before taking their seat.
48. Whenever the Chairperson, Deputy Chairperson or the Member Secretary is unable to chair the meetings of the Council, the senior-most Member, determined based on the number of years in service, present in the meeting shall chair the meetings.
49. The Members shall sit in such order and at such place as the Member Secretary and the Secretariat of the Council may determine from time to time.
50. A Member shall directly address the issue, sitting at his or her place, to the Chairperson.
51. The Council may form Sub-Committees from among its members as and when necessary.

52. The Council may, by directions in writing and subject to such conditions, appoint any Committee or person to carry out any examination, evaluation or inquiry based on which it may derive a decision pertaining to its responsibilities.
53. The Council may deploy such professionals, assistants, and clerical assistance as may be deemed necessary to perform the duties and responsibilities during the sessions of the meetings.
54. A Member shall exercise all care to ensure that no conflict of interest arises at all times. A Member who has an actual or potential interest in the subject matter of discussion in the meeting shall recuse himself or herself and must leave the meeting room. The Member who has recused from the meeting shall not:
- a) Participate in deliberations;
  - b) Make recommendations;
  - c) Give advice;
  - d) Participate in any manner; or
  - e) In any way assume responsibility for any aspect of the investigation or deliberative process.
55. The Council shall debate and deliberate on agendas fairly and objectively.
56. Every Member shall act honourably, independently and freely in the exercise of his or her powers, functions and responsibilities as a Member of the Council.
57. Every Member desiring to address the issue in a meeting shall raise his or her hand in advance and when called upon by the Chair shall address his or her observations to the Chair.
58. A Member shall be respectful and courteous in his or her relations with the Council and its Members and Secretariat Personnel.

59. A Member shall maintain a high level of competence in the relevant laws, policies, and such other fields applicable as are necessary or expedient for, or incidental to, the exercise of his or her powers, functions and responsibilities as a Member of the Council.

60. A Member shall comply at all times with the provisions of the Act, this Rule and any other rules and regulations as may be made by the Council from time to time.

### **Voting and Decision**

61. Every Member present in the meeting shall have one vote each and Members shall not be allowed to abstain from voting.

62. The Council, by a simple majority of the Members present in the meeting, shall decide procedural matters not relating to policies.

63. The Council shall decide substantive matters concerning policies by not less than two-thirds of the total strength of the Members.

64. In case of tie votes, the Chair of the meeting as the case may be shall have the casting vote.

65. The call of the Chairperson of the meeting on whether a matter is a substantive matter concerning policies or procedural matters not relating to policies shall be final and binding.

66. All the decisions of the Council shall be in writing and shall contain the date and place of their issuance, the composition of the Council, and the reasons for the decision.

67. All the decisions shall be signed by every Member present in the meeting of the Council.

### **Confidentiality**

68. Unless otherwise permitted by this Rule, or unless revealed by the Council, all proceedings before the Council and all information, communications, materials, papers, files, and transcripts, written or oral, received or developed by the Council in the course of its work, shall be confidential.
69. No Member of the Council or Secretariat Personnel shall disclose such proceeding, information, communications, materials, papers, files, or transcripts, except in the course of official duty or as otherwise authorized by this Rule.
70. The Council may disclose information to any committee, commission, agency, or body empowered to investigate, regulate, or adjudicate matters incident to the Council.

### **Violations and Immunity**

71. If a Member or Secretariat Personnel is found to have violated the provision relating to the confidentiality of the Rule, the Chairperson shall accordingly reprimand in writing with an entry in the personal file in cases of minor violations.
72. If the Chairperson rules that the violation committed by a Member is grave and serious, the Council with two-thirds of the total strength of the Council shall terminate the mandate of such Member in the Council. The Chairperson shall accordingly inform the Chief Justice of Bhutan of such termination.
73. If the Chairperson rules that the violation committed by a Secretariat Personnel is grave and serious, the Council shall, with two-third of the total strength of the Council, shall terminate the mandate of such Personnel in the Secretariat in addition to appropriate administrative and disciplinary actions in accordance with the applicable Rule.

74. When acting within the course and scope of their duties and without malice or criminal intent and reckless, willful and wanton conduct, a Member shall be immune from liability for any claim that arises out of the performance of those duties.

### **Sitting Fee**

75. The Members present in the meeting of the Council may be paid as per the existing financial rules.

## **CHAPTER V**

### **Miscellaneous**

76. The interpretation of this Rule by the Council shall be final and binding.

77. This Rule may be amended or supplemented at any meeting by the affirmative vote of not less than two-thirds of the total strength of the Council.

78. The Dzongkha text shall be the authoritative text if there exists any difference in meaning between the Dzongkha and the English texts.

79. In this Rules, unless the context otherwise requires:

- a) "Act" means the Judicial Service Act of Bhutan 2007;
- b) "Chairperson" means the Chairperson of the Council;
- c) "Chair" means the Chair of the Council meeting;
- d) "Council" means the Royal Judicial Service Council established under the Act;
- e) "Deputy Chairperson" means the Deputy Chairperson of the Council;
- f) "Judicial Service Personnel" means Personnel working in various courts except for the Chief Justice of Bhutan and Drangpons of the Supreme Court and Chief Justice and the Drangpons of the High Court;
- g) "Meeting" means a meeting of the Members of the Council;
- h) "Member" means a Member of the Council;

i) “Secretariat” means the Secretariat of the Council.