

Contempt of Court Rules and Regulation of Judiciary of Bhutan, 2022

In exercise of the powers conferred by Article 21 of the Constitution of Bhutan, 2008, Section 30 of the Civil and Criminal Procedure Code, 2001, and in pursuant to chapter 16 of the Procedure Code, to regulate the proceedings for contempt, the Judiciary of Bhutan hereby makes the following Rules and Regulation.

Preliminary

1. Short Title

1. This Rule shall be called the Contempt of Court Rules and Regulation, 2022.
2. It shall come into force on 01/07/2022.

2. Interpretation

In this Rule, unless the context otherwise requires:

1. “Contempt of Court” has the meaning assigned to it under chapter 16 of the Civil and Criminal Procedure Code, 2001.
2. “Drangpon” means any person appointed under Article 21 of the Constitution and chapter 6 of the Judicial Service Act, 2007.
3. “Rule” means this rule and any other applicable rules.
4. “Subordinate Courts” has the meaning assigned to it by Article 21 of the Constitution.
5. “Judgment” has the meaning assigned to it under Section 96 of the Civil and Criminal Procedure Code, 2001.
6. All other words and expressions shall have the same meanings as defined in this Rule.

3. Objective of the Rule

The objectives of the Rule are to:

1. Uphold the dignity and authority of the court;
2. Ensure compliance with the directions of the court;
3. Ensure respect for the due process of law;
4. Preserve an impartial system of justice; and
5. Maintain public trust and confidence in the administration of justice.

Part -I
Contempt of Court

4. Contempt of Court

1. Contempt of Court shall constitute –

(a) Civil contempt which means and includes willful disobedience of any judgment, direction, order, or willful breach of an undertaking given to the competent court.

(b) Criminal contempt arises from the conduct, in the face of the Court or within the compound of the Court, calculated to:

(a) Impede, embarrass, or obstruct the court in its administration of justice;

(b) Derogate the court’s authority or dignity, or

(c) Bring the administration of law into disrepute.

2. In any case not relating to civil or criminal proceedings as contemplated under subsection (1), an act that is willfully committed to interfere, obstruct or interrupt the due process of the administration of the justice including any press release issued by any authority criticizing the court and creating clear and present danger to the administration of justice.

5. Application of Strict Liability Rule

1. In this Rule “strict liability rule” means a rule of law where conduct may be treated as contempt of court as tending to interfere with the course of justice in a particular legal proceeding, including such other conducts.

2. This strict liability rule shall only apply in relation to publication and for this purpose ‘publication’ shall include any speech, writing, broadcast or other communication, which is addressed to the public at large.

3. A person shall be strictly liable for contempt of court, where the person interferes with the course of justice through his writing or publication of wrongful information that has changed the material facts of the issue when the matter is under *sub judice* and where such writings or publication seriously impeded or prejudiced the course of justice.

4. A person is not guilty of contempt of court under this strict liability rule if the person has written or published, if at the time of writing or publication had no reason to believe that the proceeding was under *sub judice*.

5. A publication made as a part of a discussion in good faith of public affairs or other matters of general public interest is not to be treated as a contempt of court under the strict liability rule if the risk of impediment or prejudice to particular legal proceedings is merely incidental to the discussion.
6. The burden of proof to establish his/her defense under this section shall fall upon that person.

6. Motion for Filing Contempt of Court

1. A petition for civil contempt may be filed by a complainant before the court of original jurisdiction where the cause of action has occurred.
2. The petition shall contain the following:
 - (a) The name and address of the accused;
 - (b) The grounds and material facts on the basis of which action is sought; and
 - (c) The nature of the order sought from the court.
3. The petitioner shall submit a copy of the judgment, order or undertaking which is alleged to have been disobeyed by the accused.
4. Cognizance of criminal contempt
 - (a) In the case of criminal contempt, a court may take action on its motion when a presiding Drangpon of the court has personally observed the conduct of the accused.
 - (b) Every motion or reference made under this section shall specify the contempt of court the person is charged with.

Part-II

Jurisdiction of the Court

7. Jurisdiction of the Subordinate Courts

1. Every court shall have the jurisdiction to hear criminal contempt of court in any case where a person –
 - (a) Assaults, threatens, intimidates, or willfully insults a court official during the hearing or attendance in a court;
 - (b) Willfully interrupts or obstructs the proceedings of a court; or
 - (c) Willfully disobey or violates an order or direction of a court

- (d) Without substantial reason post a derogatory comment on social media which seriously undermines the integrity of the court.
2. In order to make a finding for civil contempt of court, the court must find that:
 - (a) The order or judgment was issued;
 - (b) The accused had knowledge of the order or judgment;
 - (c) The accused had the ability to obey it; and
 - (d) The accused willfully disobeyed the order or the judgment.
 3. Contempt Proceedings
 - (a) Every proceeding for contempt shall only be dealt with by the sitting judge of the court.
 - (b) An offence of contempt of court shall be disposed of by an instant order or summarily in accordance with Section 151 of the Civil and Criminal Procedure Code, 2001.
 - (c) The accused, if contempt is disposed of summarily, shall be present in person on the date of hearing unless exempted on the order of the court.
 - (d) Except as otherwise expressly provided in other law, a person who is convicted of contempt of court shall be liable to a fine or imprisonment or both as per Section 102 of the Civil and Criminal Procedure Code, 2001 and Sections 367 and 368 of the Penal Code, of Bhutan 2004.
 - (e) A court may revoke an order if the accused produces before a court a guarantor who in writing submits to the court to restitute the complainant as specified in the judgment.
 4. Contempt of Court against the management of State Organ, Government Department, Ministry or Corporation
 - (a) Where a state organ, government department, ministry or corporation is guilty of contempt of court in respect of any undertaking given to a court, the court shall serve notice through the Head of the concerned Organization to show cause why contempt of court proceeding should not be initiated.
 - (b) If the head of the concerned Organization does not respond to the notice to show cause issued, the court shall proceed with contempt of court proceedings against the same.

5. General Defense to Contempt of Court

In a proceeding for contempt of court, it shall be a defense, if it is proved to the satisfaction of the court that the conduct in issue:

- (a) is a fair comment on the general working of the court made in good faith;
- (b) is a fair comment on the merits of the decision of a court made in good faith; and
- (c) is a publication of a fair and substantially accurate report of any judicial proceedings.

8. Amendment

No part of this rule shall be amended except by the order of the Chief Justice of Bhutan.