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**Royal Government of Bhutan**  
*Ministry of Trade & Industry*  
THIMPHU: BHUTAN

# Rules and procedures for election of directors

Registrar of Companies  
Department of Industry  
Ministry of Trade and Industry  
Thimphu

November 22, 2004

## Rules and procedures for election of directors

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## 1. Applicable section

Directors of a public company shall be appointed by the company in general meeting as per section 76 sub section 3. If the Article of Incorporation does not require the retirement of all the directors, 1/3 shall retire on rotation at every general meeting.

## 2. Eligibility of nomination

Every person shall be eligible for election as a director at the general meeting subject to fulfilling the following conditions:

- 2.1 there is a vacancy to be filled
- 2.2 the person does not contravene section 79
- 2.3 the person is nominated by (a) the board or (b) the shareholder(s) through a written nomination signed by at least 5 shareholders (c) the Royal Government of Bhutan
- 2.4 the person consents to the nomination in writing
- 2.5 The nomination and consent is received by the company not less than 07 days before the meeting
- 2.6 Directors who have been the longest in office shall retire first. For those persons appointed at the same day, retirement on rotation shall be determined either by mutual agreement failing which retirement shall be conducted by lot. *Lot shall constitute 'writing the names of those directors that contend retirement' and placing their names for pick up. The names of the directors shall be picked till the required number are met who shall retire. The remaining shall be appointed as per section 76 (3)'*

## 3. Shareholder's entitlement to nominate candidates for election

The Company shall notify all the shareholders listing the names of directors retiring on rotation and **the vacancy thereof at least one month** before the conduct of the Annual General Meeting

Every shareholder listed on the register of shareholders at the time of the filing the nomination shall be entitled to nominate and sign the nomination of a candidate for the post of a director at the general meeting. Where there is a joint holder of a share, then the shareholder whose name appears first in the register shall sign the nomination.

The register of shareholders shall be made available for inspection to the shareholders at the Registered Office of the Company or any other place as approved by the Registrar of Companies during the ordinary hours of business.

Proxy shareholder shall not be eligible to nominate a candidate. The rights of the proxy shareholder shall be limited to voting by poll only. The Proxy holders are allowed to attend and vote in the General Meeting, but a proxy so appointed shall not have any right to speak in the meeting, and shall not be entitled to vote except on a poll

#### **4. Form of nomination and consents**

##### **4.1 Nominations**

The nominations shall be filed as prescribed in Form A: Nomination form. The company shall accept only original nominations and faxed nominations if only duly attested by the Registrar of Companies.

##### **4.2 Consents**

A candidate so nominated shall be required to send his confirmation as prescribed in form B

#### **5. Filing nomination**

##### **i. Time period**

Nomination shall be filed and should be received by the company 07 days before the general meeting

##### **ii. Place/ address**

Nomination forms and consents shall be addressed to:

Name of Company  
Address (including fax no. tel, email, post box)  
Contact person

Postal delay in receiving the nominations and forms shall not be the responsibility of the company.

#### **6. Acceptance of nomination**

The company shall notify the shareholder and the candidate in case of any irregularities and in the absence of such a notification, the same shall be deemed to be in order and hence accepted.

#### **7. Voting system**

##### **FOR PUBLIC COMPANIES**

##### **7.1 Where the number of candidates are equal or lesser than the number of vacancies**

In such a case, every candidate must receive more votes approving their election as a director, which means a simple majority of votes by the shareholders present.

##### **7.2 Where the number of candidates exceeds the number of vacancies**

The Chairman shall call for a poll and every shareholder may vote in favour of the appointment of as many candidates as they approve of. The candidates with the most votes in descending order will be elected until all vacancies are fulfilled.

## FOR GOVERNMENT OWNED COMPANIES

- 7.3 The Government Owned Companies shall be exempt from voting. Appointment order of the Government shall be read out in the General Meeting and duly endorsed and minutes recorded.

## FOR GOVERNMENT CONTROLLED COMPANIES

- 7.4 Where the Government decides to participate in voting, voting shall be conducted as per this Rules and Procedure.
- 7.5 Where the Government decides to appoint its candidates as directors, the number of directors so appointed shall be exempt from voting. Public nominations shall be voted in accordance with this Rule.
- 7.6 Where the number of directors have been appointed by the Government as per rule 7.5, the number of vacancies for public holding shall be determined as follows;

### Example

Number of directors appointed	6
Governments shareholding	60%

Number of directors for public	=	[Shareholding of public x number of directors appointed by government]/shareholding of Govt.
	=	[40*6]/60
	=	4 directors

*Decimals greater than 0.5 shall be taken as 1 and lesser than 0.5 shall be taken as 0.*

### Voting rights as per section 26

- *On a poll - As many votes as the number of shares held.*
- *63: "A body corporate if it is a shareholder of a company, may by resolution of its board of directors authorise him to act as its representative in the meeting of the company"*
- *The Proxy holders are allowed to attend and vote in the General Meeting, but a proxy so appointed shall not have any right to speak in the meeting, and shall not be entitled to vote except on a poll*

### **General rules**

1. The voting shall be restricted to the candidates so nominated only.
2. Voting will be conducted by secret ballot and on poll: One share = one vote
3. Every shareholder or proxy shareholder shall fill in the ***"(a) Shareholder/proxy shareholder information form – page 1A and page 1B and (b) Ballot form – page 2*** and ensure that the information given are true and correct.
4. Information should be clearly written and the correct details as required by the ballot papers. Incorrect, false and misleading ballot papers shall be deemed rejected for voting.

5. Shareholder or proxy shareholders can take the assistance of the company's election members for any assistance or clarifications.
6. The votes once cast will not be allowed to be recast or modified or otherwise.
7. Every shareholder or proxy shareholder can cast all votes for one candidate or cast votes proportionately or disproportionately for one or several candidates.
8. Every shareholder or proxy shareholder has the right to abstain from voting.
9. Votes shall be cast for all the candidates at the same time.
10. No votes shall be allowed to be cumulative
11. Votes cast cannot exceed the total number of shares held by the shareholder or the proxy shareholder.
12. No duplication of votes will be allowed.
13. If the number of votes cast exceeds the total number of shares held by the shareholder or the proxy shareholder, then the votes cast for one or more candidates shall be reduced proportionately.
14. In the event the votes cast are less than the actual number of shares held, then the balance votes that was not cast shall be not allowed for voting.
15. After the casting of votes, the candidate obtaining the highest votes in descending order shall be elected as directors.
16. All candidates with highest votes irrespective of a tie shall be elected as directors followed by the next highest candidate subject to availability or vacancy.
17. Voting will be conducted again for a tie at the last vacancy. Every shareholder or proxy shareholder present and entitled to vote shall re-cast his or her votes for the candidates with the tie.

#### **PRIOR PROCEDURE**

- The Proxy Form must be signed by the shareholder as per the Form prescribed in schedule VII of the Companies Act of the Kingdom of Bhutan, 2000
- The shareholders represented by proxy must have filed in Schedule VII – Form of Proxy not less 48 hours prior to commencement of the meeting for voting.
- Nomination of directors and Form of Proxy if signed on behalf of the shareholders by another person shall be accompanied by the Power of Attorney/Authorization of the shareholder.
- The original Proxy/Nomination Form must be submitted before commencement of the meeting

#### **8. Election Committee**

To ensure that the election of director is conducted in an equitable, transparent and accountable manner, the company shall constitute a committee consisting of:

- iii. Election Officer (chairman of the committee) – who can be appointed from within or outside the Company.
- iv. Verifying Officer shall be an employee of the Company – Company Secretary
- v. Examining Officer shall be an employee of the Company – Record keeper
- vi. Two or more shareholders

The decision of the committee shall be final and binding.

**9. Penalty**

Non-compliance of the rules and procedures shall be tantamount to contravention of applicable provisions of the Act and shall be penalised as per section 140.

**10. Revision of Rules and Procedures**

The revision (including amendment) of rules and procedures shall be made from time to time as deemed fit by the Ministry of Trade and Industry.

**As empowered under section 137 and 138 of the Companies Act of the Kingdom of Bhutan, 2000.**

Given under my Official Seal  
At Thimphu  
November 22, 2004

**Yeshey Zimba**  
**Minister for Trade & Industry**

**FORM A: Nomination Form**

To,  
The Managing Director/Company Secretary  
..... Limited  
Address

I/We nominate the following person(s) for election of directors

- Name of candidate
- Candidate' mailing address
- Tel:
- Fax:
- Email:
- Citizen Identity card number

**Nominated by: A) Royal Government of Bhutan B) Board C) Shareholders**

Full name of shareholder(s)*	Address	ID card No Certificate of Incorporation & Date/ RSEB Code no.	Signature
1.			
2.			
3.			
4.			
5.			

Place :  
Dated :

\*(as it appears in the shareholder's register/share certificate/trading note)



