

འབྲུག་གི་ཉེས་འགལ་ཁྲིམས་དེབ་ (འཕྲི་སྒྲོན་)
བཅའ་ཁྲིམས་ ༢༠༡༡ ཅན་མ།



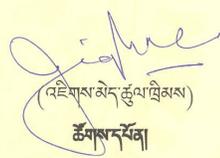
**PENAL CODE (AMENDMENT) ACT OF
BHUTAN 2011**

ཨན་ཨེ་ཅི/ཨེས་ཅི_04/2017/43C

སྤྱི་ཚེས་ 14-2-2017 ལཱ།

3 ངང་ཁྲིམས་ལྷན་སྡེ་དབུ་ཡིད་པ་མི་ཇི་ཇི་འབྲུག་གི་ཁྲིམས་སྤྱི་ཚོགས་ལོ་མཚོགས་ལཱ།

ཞུ་འབྲས་ དེ་ནི་ སྤྱི་ལོ་ 2017 ཟླ་ 4 པའི་ཚེས་ 20 ལཱ། སྤྱི་ཚོགས་ལྷན་བཞུགས་ཤོག་ ཆ་འཛོགས་གྲུབ་པའི་ **འབྲུག་གི་ཉེས་འགེལ་ཁྲིམས་དེབ་ (འཕྲི་སློབ་)བཙམ་ཁྲིམས་ 2017 ཅན་མ་དེ་** ཆ་ཁྲིམས་ཚེན་མོའི་ཚུ་ཚོན་ 13.17 པའི་དགོངས་དོན་ལྟར་ མི་དབང་མངའ་བདག་པོ་འོ་ཚེ་ལོ་ལོ་ལོ་ལོ་ལོ་ ལས་ རང་ལུགས་གནམ་ལོ་ལུགས་མོ་ལོ་ལོ་ལོ་ལོ་ 4 པའི་ཚེས་ 2 ལཱ། ལཱ་མ་ སྤྱི་ལོ་ 2017 ཟླ་ 2 པའི་ཚེས་ 4 ལས་འགོ་བཟུང་ སྤྱི་ཚོགས་ཀྱི་གོ་སྐབས་ཚོད་དང་འཁྲིལ་ཏེ་ བསྐྱར་སྤྱོད་འབད་དགོ་པའི་བཀའ་མཐམ་གནང་ཡོད་པ་བཞིན་དུ་ དེར་ ལྷན་སྡེ་འམང་འཁྲུལ་གྱི་ ཁྲིམས་འདུན་ཡོངས་ཀྱིས་ དང་སྐངས་མཚན་གནང་དགོ་པའི་སྤྱི་ཚོགས་ལྷན་ལཱ་ རང་ལུགས་གནམ་ ལོ་ལུགས་མོ་ལོ་ལོ་ལོ་ལོ་ 4 པའི་ཚེས་ 14 ལཱ།



(འཛོགས་མེད་ཚུལ་ཁྲིམས་)
ཚོགས་དཔོན།

- འད 1. གཞུང་སྲོད་དབུ་ཡིད་པ་མི་ཇི་ཇི་ཚོན་ཚེན་མཚོགས་ལཱ། ལྷན་སློབ།**
2. རྒྱལ་ཡོངས་ཚོགས་སྡེ་འཇི་ལེ་འཛོགས་ཚོགས་ལཱ། ལྷན་སློབ།
 3. མངའ་བདག་དབུ་ཡིད་པ་མི་ཇི་ཇི་ ལྷན་ལཱ་འཛོགས།
 4. རྒྱལ་ཡོངས་ཚོགས་འདུ་འཛོགས་ལྷན་སློབ་ཚོགས་ལཱ།

TABLE OF CONTENTS

	Page
Short Title, Commencement and Extend	1
Section 3 (d) is amended	1
In the Code, Section 7(a) is amended	2
In the Code, Section 14 is amended	2
In the Code, Section 18 is amended	2
In the Code, Section 39 is amended	3
In the Code, the title of Chapter 9 is amended	4
In the Code, the sub- title before Section 114 is amended	4
In the Code, Section 114 is amended	4
In the Code, Section 115 is amended	4
In the Code, Section 116 is amended	4
In the Code, Section 117 is amended	5
In the Code, Section 154 is amended	5
In the Code, Section 177 is amended	5
In the Code, Section 181 is amended	5
In the Code, Section 182 is amended	6
In the Code, Section 183 is amended	6
In the Code, Section 184 is amended	6
In the Code, Section 191 is amended	6
In the Code, Section 192 is amended	7
In the Code, Section 193 is amended	7
In the Code, Section 194 is amended	7
In the Code, after Section 214, new sections are inserted	7
In the Code, Section 226 (a) is amended	8

	8
In the Code, Section 247 is amended	8
In the Code, Section 260 is amended	8
In the Code, Section 278 is amended	8
In the Code, Section 307 is amended	9
In the Code, Section 309(e) is amended	9
In the Code, after Section 316 , new Sections are inserted,	9
In the Code, Section 319 is amended	10
In the Code, Section 321 is amended	10
In the Code, Section 327(b) is amended	11
In the Code, Section 385 is amended	11
In the Code, Section 386 is amended	11
In the Code, Section 387 is amended	12
In the Code, Section 388 is amended	12
In the Code, Section 410 is amended	12
In the Code, Section 411 is amended	12
In the Code, Section 416 is amended	13
In the Code, Section 455 is amended	13
In the Code, after Section 463 , new Sections are inserted	13
In the Code, Section 471 is amended	14
In the Code, Section 487 is amended	14
In the Code, Section 491 is amended	14
In the Code, after Section 496 (c) , a new sub-clause is inserted	14
In the Code, Section 497 is amended	15
In the Code, Section 506 is amended	15
In the Code, Section 507 is amended	15

PENAL CODE (AMENDMENT) ACT OF BHUTAN 2011

An Act to amend the Penal Code of Bhutan, 2004

Parliament of the Kingdom of Bhutan hereby enact the Penal Code (Amendment) Act of Bhutan 2011 on the 22nd Day of the 3rd Month of Iron Female Rabbit Year of the Bhutanese Calendar corresponding to the 24th 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 **PENAL 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 Penal Code of Bhutan, 2004, hereinafter referred to as the Code, Section 3 (d) is amended as:**

“A crime shall be a violation, if it is so designated in this Penal Code or other laws and provides that the convicted defendant shall not be imprisoned but shall be fined the

minimum wage up to a maximum of ninety days”.

3. **In the Code, Section 7(a) is amended as:**

“In case of a felony of the first degree comprising of murder, treason, terrorism or gang rape of a child of 12 years and below”.

4. **In the Code, Section 14 is amended as:**

“A defendant convicted of a violation shall be fined the minimum wage for a maximum of ninety days”.

5. **In the Code, Section 18 is amended as:**

“The offence graded as value based under this Code shall be:

- (a) A felony of the third degree, if the value or the amounts involved in the crime exceed the total amount of the minimum wage at the time of the crime for a period of thirty years or more;
- (b) A felony of the fourth degree, if the item of the crime is not of a type described in Section 18(a) and the value or the amounts involved in the crime exceed the total amount of the minimum wage at the time of the crime for a period less than thirty years and for period of fifteen years or more;
- (c) A misdemeanor, if the item of the crime is not of a type described in Section 18 (a) & (b) above and the value or the amounts involved in the crime exceed the total amount of the minimum wage at the time

of the crime for a period less than fifteen years and for a period of seven years or more; or

- (d) A petty misdemeanor, if the item of the crime is not of a type described in Section 18(a) (b) and (c) above and the value or the amounts are less than the total amount of the minimum wage at the time of the crime for a period less than seven years.”

6. In the Code, Section 39 is amended as:

“If the Court determines that compensatory damages are appropriate, then a defendant convicted of a crime shall pay appropriate compensatory damages at the rate of the minimum wage at the time of the crime for:

- (a) Ten years to the surviving spouse or next of kin of the victim and the cost for forty-nine days for seven people towards the expenses incurred in the funeral rites of the deceased victim, when the crime has resulted in the death of the victim;
- (b) Ten years, if the crime causes permanent total disability to the victim;
- (c) Seven years, if the crime causes permanent partial disability to the victim;
- (d) Five years, if the crime causes temporary total disability to the victim;

(e) The daily wage lost to the victim, when the crime has resulted in temporary loss of wage”.

7. **In the Code, the title of Chapter 9 is amended as:**

“Child in Conflict with Law and Mental Disability”

8. **In the Code, the sub- title before Section 114 is amended as:**

“Child in conflict with law”

9. **In the Code, Section 114 is amended as:**

“If the defendant is a child of 12 years and below, he/she shall not be held liable for any offence committed by him/her”.

10. **In the Code, Section 115 is amended as:**

“If the defendant is a child of above 12 years, the Court shall sentence the child in conflict with the law to a minimum of half of the sentence prescribed for the offence”.

11. **In the Code, Section 116 is amended as:**

“If a child is found guilty of an offence for which imprisonment is prescribed, the Court may in lieu of imprisonment consider the availability of other appropriate facilities and correctional institutions”.

12. **In the Code, Section 117 is amended as:**

“If a child is found guilty of an offence for which damages are appropriate, the Court may order the parents or legal guardian of the child in conflict with law to pay the damages”.

13. **In the Code, Section 154 is amended as:**

“A defendant shall be guilty of the offence of trafficking a person if the defendant recruits, transports, sells or buys, harbours or receives a person through the use of threat or force or deception within, into or outside of Bhutan for any illegal purpose”.

14. **In the Code, Section 177 is amended as:**

“A defendant shall be guilty of the offence of rape, if the defendant commits any act of sexual intercourse whatever its nature against any other person:”

15. **In the Code, Section 181 is amended as:**

“A defendant shall be guilty of the offence of statutory rape, if the defendant engages in any act of sexual intercourse whatever its nature with a child below twelve years, or an incompetent person, either with or

without knowledge of the other person being a child or incompetent person”.

16. **In the Code, Section 182 is amended as:**

“The offence of statutory rape shall be a felony of the first degree”.

17. **In the Code, Section 183 is amended as:**

“A defendant shall be guilty of the offence of rape of a child above the age of twelve years if the defendant commits any act of sexual intercourse against a child between the ages of twelve to eighteen years. However, consensual sex between children of sixteen years and above shall not be deemed to be rape”.

18. **In the Code, Section 184 is amended as:**

“The offence of rape of a child above the age of twelve years shall be a felony of the second degree”.

19. **In the Code, Section 191 is amended as:**

“A defendant shall be guilty of the gang rape of a child of twelve years and below, when two or more persons engage in any act of sexual intercourse whatever its nature with a child of twelve years and below”.

20. **In the Code, Section 192 is amended as:**
“The offence of gang rape of a child of twelve years and below shall be punishable with life imprisonment”.
21. **In the Code, Section 193 is amended as:**
“A defendant shall be guilty of the offence of gang rape of a child above the age of twelve years, when two or more persons engages in any act of sexual intercourse whatever its nature with a child between the age of twelve and eighteen years”.
22. **In the Code, Section 194 is amended as:**
“The offence of gang rape of a child above the age of twelve years and below sixteen years shall be a felony of the first degree.

Offence of gang rape of a child above the age of sixteen and below eighteen years shall be a felony of second degree”.
23. **In the Code, after Section 214, new sections are inserted , namely :**
“Section 214A
Unauthorized Disclosure of Identity
A defendant shall be guilty of the offence of unauthorized disclosure of identity if the defendant discloses the identity of a rape victim in the media without the consent of the victim”.

“Section 214B

Grading of Unauthorized Disclosure of Identity

The offence of unauthorized disclosure of identity shall be a petty misdemeanor”.

24. **In the Code, Section 226 (a) is amended as:**

“A felony of the fourth degree; or”

25. **In the Code, Section 247 is amended as:**

“A defendant shall be guilty of the offence of armed robbery, if in the course of committing a robbery, the defendant is armed with a deadly weapon”.

26. **In the Code, Section 260 is amended as:**

“In this Penal Code, the term “service” shall include labour, professional services, transportation services, telecommunication/information technology services, including cable television, gas, electricity, water, accommodations in a hotel, and restaurant service, or any other such services”.

27. **In the Code, Section 278 is amended as:**

“The offence of money laundering shall be a value-based sentencing or a felony of the third degree, whichever is higher”.

28. **In the Code, Chapter 20 is repealed except for Section 294 and 295 (Official Misconduct) which shall be inserted after Section 316 as Section 316A and 316B.**
29. **In the Code, Section 307 is amended as:**
“A defendant shall be guilty of the offence of counterfeiting, if the defendant knowingly manufactures, distributes, or sells counterfeit products, false currency, coin or bank notes”.
30. **In the Code, Section 309(e) is amended as:**
“Makes a false or misleading written statement for the purpose of promoting the sale of financial services or omits information required by law to be disclosed in written document relating to all financial services;”
31. **In the Code, after Section 316 , new Sections are inserted, namely:**
“Section 316A
Official misconduct
A defendant shall be guilty of the offence of official misconduct, if the defendant knowingly:
(a) Commits an act relating to the office constituting an unauthorized exercise of the official functions or unauthorized divulging of restricted official information or secrecy; or

- (b) Refrains from performing a duty, which is imposed upon the defendant by law”.

“Section 316B

Grading of official misconduct

The offence of official misconduct shall be a misdemeanor”.

32. In the Code, Section 319 is amended as:

“The offence of defamation shall be:

- (a) A felony of the fourth degree and pay compensation for a minimum of one month and a maximum of three years to the aggrieved party calculated in accordance with the minimum wage, if the defamation includes murder, armed robbery, terrorism or treason; or
- (b) A petty misdemeanor and pay compensation to the aggrieved party for a minimum of one month and maximum of three years calculated in accordance with the minimum wage, if the defamation includes any matter other than murder, armed robbery, terrorism or treason”.

33. In the Code, Section 321 is amended as:

“The offence of libel shall be:

- (a) A felony of the fourth degree and pay compensation for a minimum of one month and a maximum of

three years to the aggrieved party calculated in accordance with the minimum wage, if the libel includes murder, armed robbery, terrorism or treason; or

(b) A petty misdemeanor and pay compensation to the aggrieved party for a minimum of one month and maximum of three years calculated in accordance with the minimum wage, if the libel includes any matter other than murder, armed robbery, terrorism or treason”.

34. **In the Code, Section 327(b) is amended as:**

“Collaborates with the known enemy of Bhutan;”

35. **In the Code, Section 385 is amended as:**

“Use of health hazard substances

A defendant shall be guilty of the offence of use of health hazard substances, if the defendant uses health hazard substances other than tobacco, narcotic drugs or psychotropic substances in the prohibited places”.

36. **In the Code, Section 386 is amended as:**

“Grading of use of health hazard substances

The offence of use of health hazard substances shall be a violation”.

37. **In the Code, Section 387 is amended as:**

“Illegal sale of health hazard substances

A defendant shall be guilty of the offence of illegal sale of health hazard substances, if the defendant illegally sells any health hazard substances other than tobacco, narcotic drugs or psychotropic substances”.

38. **In the Code, Section 388 is amended as:**

“Grading of illegal sale of health hazard substances

The offence of illegal sale of health hazard substances shall be a violation”.

39. **In the Code, Section 410 is amended as:**

“A defendant shall be guilty of the offence of criminal nuisance, if the defendant knowingly or recklessly creates or maintains a condition including spreading of dangerous diseases that causes injury or endangers the safety or health of an individual or the public”.

40. **In the Code, Section 411 is amended as:**

“The offence of criminal nuisance shall be:

(a) A misdemeanor; or

(b) A felony of fourth degree, if the dangerous disease has high likelihood of causing death;”

41. **In the Code, Section 416 is amended as:**

“A defendant shall be guilty of the offence of illegal arrest, if the defendant being a police officer, law enforcement personnel or other authorized government official arrests and detains a person without probable cause”.

42. **In the Code, Section 455 is amended as:**

“Grading of Failure to disperse

The offence of failure to disperse shall be a petty misdemeanor”.

43. **In the Code, after Section 463 , new Sections are inserted, namely:**

“Section 463A

Compelling others to belong to another faith

A defendant shall be guilty of the offence of compelling others to belong to another faith if the defendant uses coercion or other forms of inducement to cause the conversion of a person from one religion or faith to another”.

“Section 463B

Grading of compelling others to belong to another faith

The offence of compelling others to belong to another faith shall be a misdemeanor”.

44. **In the Code, Section 471 is amended as:**

“The offence of the unauthorized opening of mail or parcel shall be a misdemeanor”.

45. **In the Code, Section 487 is amended as:**

“The offence of display of a weapon shall be a:

(a) Misdemeanor if the weapon is a firearm; or

(b) Petty misdemeanor if the weapon is other than firearms”.

46. **In the Code, Section 491 is amended as:**

“The offence of the risking of the protected species shall be a felony of the fourth degree”.

47. **In the Code, after Section 496 (c) , a new sub-clause is inserted, namely :**

“Sub-clause C (1)

Cannabis and its derivatives”;

48. **In the Code, Section 497 is amended as:**

“The offence of illegal cultivation, production, or manufacturing of controlled substances shall be a felony of the second degree”.

49. **In the Code, Section 506 is amended as:**

“A defendant shall be guilty of the offence of illegal sale or use of harmful chemical substance, if the defendant except for household purpose unlawfully sells, imports, exports or uses any harmful chemical substances including solvents and pesticides without any licence or authorization”.

50. **In the Code, Section 507 is amended as:**

“The offence of the illegal sale and use of harmful substances shall be:

- (a) A misdemeanor if found selling; or
- (b) Petty misdemeanor if found using”.