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DRAFT CULTURAL HERITAGE BILL OF BHUTAN

2016

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## **Preamble**

WHEREAS, Bhutan's uniqueness lies in its cultural landscape where tangible and intangible cultural heritage and nature coexist harmoniously linking the people of Bhutan with distinctive history, wisdom, custom and forms of happiness;

WHEREAS, the Constitution of the Kingdom of Bhutan provides that the State shall endeavour to preserve, protect and promote the cultural heritage of the country and entrusts every citizen with the responsibility to protect culture and heritage;

WHEREAS, Bhutan as a whole is recognized for its unique cultural landscape and tangible and intangible cultural heritage which should be protected and safeguarded with the understanding of its association with natural settings and lives of the people of Bhutan in such a manner as to respect the cultural landscape;

WHEREAS, the sustenance of cultural heritage strengthens national cohesion, identity and unity for the benefit of present and future generations and therefore priority must be given to the fullest extent possible to protect and safeguard cultural heritage.

Parliament of the Kingdom of Bhutan do hereby enact the Cultural Heritage Act of Bhutan 2016 as follows:

## **GENERAL PROVISIONS**

### **Chapter 1: Preliminary**

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

1. This Act is called the Cultural Heritage Act of Bhutan 2016.

#### **Repeal**

2. The Movable Cultural Property Act of Bhutan, 2005 is hereby repealed.

#### **Purpose**

3. The purpose of this Act is to sustain cultural heritage and the cultural landscape of Bhutan for the present and future generations.

## **Chapter 2: Authorities under the Act**

### **Department of Culture**

4. The Department of Culture shall perform the functions and duties conferred by this Act.
5. The Cultural Officer shall be appointed in all Dzongkhags to assist the Dzongkhag Administration and Dzongkhag Thromde Administration for the implementation of this Act.

### **Functions of the Department of Culture**

6. The Department of Culture shall perform, inter alia, the following functions:
  - (1) formulate plans and guidelines for the implementation of this Act;
  - (2) maintain and update the lists of Registered and Designated Cultural Heritage;
  - (3) develop and revise the criteria for registration and designation of cultural heritage;
  - (4) recommend cultural heritage to be registered or designated, as well as its annulment, to the Cultural Heritage Committee;
  - (5) advise and coordinate with the local governments and other relevant public offices for the implementation of this Act;
  - (6) certify qualified individuals as heritage inspector and conservator;
  - (7) undertake survey and research related to cultural heritage and cultural landscape;
  - (8) develop and conduct awareness raising and training programs; and
  - (9) appraise and approve, the proposal for survey, research, documentation and exhibition of Registered Movable Cultural Property or Registered and Designated Cultural Site.
7. The Department shall, in relation to movable cultural property,:
  - (1) maintain, update and secure the Movable Cultural Property Database;
  - (2) coordinate inspection of the protection status of Registered Movable Cultural Properties;
  - (3) undertake necessary actions in case of loss, damage and illegal export of Registered Movable Cultural Properties;
  - (4) undertake necessary measures to prevent movable cultural properties from being transported outside the country; and
  - (5) appraise and approve, where appropriate, the proposal for repair work to be undertaken to Registered Movable Cultural Properties.
8. The Department shall, in relation to heritage site,:

- (1) prepare management plans for individual Designated Heritage Sites;
  - (2) appraise and approve, where appropriate, the requests for any work to be undertaken on Registered and Designated Heritage Sites;
  - (3) determine Designated Heritage Sites where protection work is to be undertaken;
  - (4) prepare project plans of protection work for Designated Heritage Buildings; and
  - (5) issue Heritage Conservation Orders and Interim Protection Orders.
9. The Department shall, in relation to intangible cultural heritage,:
- (1) monitor the status of execution of safeguarding measures, special project and urgent safeguarding plan for Registered or Designated Intangible Cultural Heritage;
  - (2) coordinate the inter-ministerial safeguarding plan for Intangible Cultural Heritage of National Importance and its execution; and
  - (3) appraise and approve, where appropriate, the proposal for survey, research, documentation, photographing, filming and exhibition of Registered and Designated Intangible Cultural Heritage carried out by foreign entities.

### **Cultural Heritage Committee**

10. The Cultural Heritage Committee is established as an independent authority under this Act in accordance with the rules and regulations set forth under this Act.
11. The Cultural Heritage Committee consists of such number of members, not exceeding ten members, as may be prescribed by the Prime Minister of Bhutan.
12. A member of the Cultural Heritage Committee is entitled to sitting fees and other allowances as may be prescribed in the rules and regulations set forth under this Act.
13. The Cultural Heritage Committee shall be assisted by the Department of Culture in the execution of its functions under this Act.

### **Functions of the Cultural Heritage Committee**

14. The Cultural Heritage Committee shall perform, inter alia, the following functions, :
  - 1) control, maintain and administer the Cultural Heritage Fund;
  - 2) determine the registration and designation of cultural heritage as well as its annulment;
  - 3) recognize institutional entity under section 84;
  - 4) advise relevant public offices on matters relevant to advancement of the objectives of this Act;



- 5) impose administrative penalties for offenses stipulated under this Act;
- 6) report annually to the Prime Minister of Bhutan on the execution of its functions;
- 7) appraise and approve, where appropriate, the management plans for individual Designated Heritage Sites;
- 8) define the buffer zone of Designated Heritage Sites;
- 9) acquire Registered Movable Cultural Properties and Registered or Designated Heritage Sites for the purpose of appropriate protection;
- 10) appraise and approve, where appropriate, the proposal for photography and filming of Registered Movable Cultural Property or the inside of Registered and Designated Heritage Sites;
- 11) appraise and approve, where appropriate, the proposal for the exhibition of the Registered Movable Cultural Property to be held outside the country; and
- 12) order the owner of neighbouring building or land to undertake appropriate measures to remove the danger to the Registered or Designated Heritage Site caused by the neighbouring property.

### **Cultural Heritage Fund**

15. The Cultural Heritage Fund is constituted under this Act, which shall be controlled, maintained and administered by the Cultural Heritage Committee.
16. The Administrative and Finance Division under the Department of Culture shall assist the Cultural Heritage Committee to manage the accounts of the Cultural Heritage Fund.
17. The accounts of the Cultural Heritage Fund shall be audited by the Royal Audit Authority.
18. The Cultural Heritage Fund shall not affect the annual budget of the Department of Culture allocated by Parliament to pursue the regular mandate of the Department of Culture.

### **Resources of Cultural Heritage Fund**

19. The corpus of the Cultural Heritage Fund is constituted through:
  - (1) contributions, gifts or bequests made by domestic and foreign entities;
  - (2) tourism tariff;
  - (3) income through fund raising activities;
  - (4) fines imposed under this Act;
  - (5) interest and other incomes that may be accrued from investments;
  - (6) any other resources authorized by the Fund's regulations framed by the Cultural Heritage Committee.

20. No political, economic or other conditions which are incompatible with the purpose of this Act shall be attached to contributions made to the Cultural Heritage Fund.

### **Use of Cultural Heritage Fund**

21. The Cultural Heritage Fund may be used, inter alia, for the following purposes:
  - (1) provide emergency fund for protection measure of Registered or Designated Heritage Sites under section 191;
  - (2) provide emergency fund to implement the action plan for urgent safeguarding of Registered or Designated Intangible Cultural Heritage element under section 208;
  - (3) provide loans for the protection and management of Registered and Designated Cultural Heritage;
  - (4) organize campaigns, trainings, research, survey, documentation and publications relevant to cultural heritage and the cultural landscape as recommended by the Department of Culture; and
  - (5) any other activity which may be required in furtherance of this Act as determined by the Cultural Heritage Committee.

### **Chapter 3: Roles and Responsibilities**

#### **Entity**

22. An entity shall respect and endeavour to sustain cultural heritage and cultural landscape of Bhutan to the fullest possible extent.
23. An entity, which is responsible for taking care of foreign visitors, shall make a visitor aware of the provisions of this Act and the rules and regulations set forth under this Act.

#### **Public Office**

24. All the public offices shall ensure that their policies, plans and programmes are formulated and executed in accordance with the provisions of this Act and the rules and regulations set forth under this Act.
25. Any new policy, legislation and administrative practice shall endeavour to sustain cultural heritage and the cultural landscape in Bhutan.
26. A public office having mandate of formal or informal education shall develop regular curriculum to endeavour transmission of knowledge about the country's cultural heritage in schools, colleges and universities.

#### **Dzongkhag Tshogdu and Dzongkhag Thromde Tshogde**

27. A Dzongkhag Tshogdu and Dzongkhag Thromde Tshogde shall perform, inter alia, the following functions under its jurisdiction:
  - (1) appraise and approve, where appropriate, the rules and regulatory plan to protect cultural elements identified by the Dzongkhag Administration or Dzongkhag Thromde Administration; and
  - (2) recommend to the Department of Culture for registration or designation of cultural heritage.

#### **Dzongkhag Administration and Dzongkhag Thromde Administration**

28. A Dzongkhag Administration or Dzongkhag Thromde Administration shall perform, inter alia, the following functions under its jurisdiction:
  - (1) monitor the state of protection of movable cultural property and heritage site, and the viability of intangible cultural heritage;

- (2) identify cultural elements of local importance which would constitute the cultural landscape;
  - (3) reflect the need for sustaining cultural heritage and cultural landscape in its rules and regulatory plan, and ensure that the development activity is implemented in compliance with such rules and plan;
  - (4) coordinate with the Gewog or Thromde, and other relevant public offices to sustain cultural heritage and the cultural landscape;
  - (5) assist the Department of Culture to examine and verify the loss or damage to a Registered Movable Cultural Property;
  - (6) prepare development control regulations applicable to a buffer zone of Designated Heritage Site;
  - (7) submit to the Department of Culture an annual report on the state of protection of Designated Heritage Sites;
  - (8) prepare and implement risk mitigation plans for Registered and Designated Heritage Sites;
  - (9) prepare project plans of protection work for Important Cultural Sites and Registered Archaeological Sites;
  - (10) coordinate the implementation of protection work for Important Cultural Site;
  - (11) execute appropriate protection works in Registered Archaeological Site;
  - (12) submit to the Department of Culture a work progress report on Registered or Designated Heritage Site;
  - (13) promote registration of intangible cultural heritage elements in consultation with their bearers; and
  - (14) any other functions requested by the Department of Culture for the implementation of this Act.
29. A Cultural Officer shall coordinate with the Department of Culture to perform the functions under section 28.

### **Gewog Administration**

30. A Gewog Administration shall inform the Dzongkhag Administration of the local needs to sustain cultural heritage and cultural landscape, and assist the Dzongkhag in the implementation of this Act.

## **CULTURAL LANDSCAPE**

### **Chapter 4: Cultural Landscape**

#### **Protection of Cultural Elements in Cultural Landscape**

31. A Dzongkhag Administration or Dzongkhag Thromde Administration shall identify cultural elements of local importance, which contribute to the cultural landscape, such as built structures, distinct architectural style, settlement patterns, land-use patterns, natural settings and geographical formation of cultural significance, as well as practices of Intangible Cultural Heritage.
32. A Dzongkhag Administration or Dzongkhag Thromde Administration shall, in consultation with the relevant public offices, develop rules and regulatory plan to sustain the cultural landscape and to protect cultural elements identified under section 31, which includes the publication of the list of identified cultural elements.
33. The rules and regulatory plan shall come into effect upon approval by the Dzongkhag Tshogdu or Dzongkhag Thromde Tshogde.
34. An entity which intends to undertake development activity which may affect the cultural element identified under section 31 shall obtain consent of the local community associated with the cultural element prior to seeking a development permit from the Dzongkhag or Dzongkhag Thromde.
35. A Dzongkhag Administration or Dzongkhag Thromde Administration may issue a development permit in accordance with the rules and regulatory plan under section 32.
36. Where the rules and regulatory plan under section 32 entirely or partially restrict development activities, no claim may be made against any authority for any reduction in value of the land or building resulting from such restriction.

#### **Cultural Landscape Impact Assessment**

37. An entity which intends to undertake large-scale development activity specified in the rules and regulations set forth under this Act, shall obtain a development permit from the Dzongkhag Administration or Dzongkhag Thromde Administration in accordance with the procedures stipulated in the rules and regulations set forth under this Act.
38. A Dzongkhag Administration or Dzongkhag Thromde Administration shall forward an application for large-scale development activity to the Department of Culture.

39. A Dzongkhag Administration or Dzongkhag Thromde Administration shall not issue a development permit without a cultural landscape clearance issued by the Department of Culture.
40. Within the period stipulated in the rules and regulations set forth under this Act, the Department of Culture shall either inform the entity of its decision on a cultural landscape clearance or instruct the entity to submit a cultural landscape impact assessment for a later decision.
41. An entity shall prepare and submit cultural landscape impact assessment documents in accordance with the rules and regulations set forth under this Act, when the Department of Culture instructs submission under section 40.
42. The cost of preparation of the cultural landscape impact assessment documents shall be borne by the entity.
43. If the Department of Culture, based on the cultural landscape impact assessment document is of the view that the existing harmony of cultural and natural elements constituting the cultural landscape will be adversely affected by the development activity, it may instruct in writing the entity to change the work plan, or to implement prevention and mitigation measures.
44. An entity, in the case of section 43, shall follow the instructions of the Department of Culture.
45. All expenses to implement the prevention and mitigation measures shall be borne by that entity.

## **CULTURAL HERITAGE**

### **Chapter 5: Registration and Designation of Cultural Heritage**

#### **Procedure for Registration and Designation of Cultural Heritage**

46. The Cultural Heritage Committee shall, upon the recommendation of the Department of Culture, register movable cultural properties, heritage buildings, archaeological sites or intangible cultural heritage elements.
47. The Cultural Heritage Committee shall, upon the recommendation of the Department of Culture, designate heritage buildings, cultural sites or intangible cultural heritage elements.
48. The Department of Culture shall develop and revise the criteria for registration and designation of cultural heritage in accordance with the definition of cultural heritage values specified under this Act.
49. The Department of Culture shall maintain and update registers of movable cultural property, heritage building, archaeological site, and intangible cultural heritage as well as the lists of Designated Heritage Buildings, Important Cultural Sites and Intangible Cultural Heritage of National Importance.
50. A Dzongkhag Tshogdu or Dzongkhag Thromde Tshogde may recommend to the Department of Culture for registration or designation of cultural heritage.

#### **Registration of Movable Cultural Properties**

51. A movable cultural property shall be registered in the Movable Cultural Property Register on the basis of the criteria developed under section 48, if:
  - (i) the property represents significant cultural heritage value and is more than 100 years since its creation; or
  - (ii) the property represents exceptional cultural heritage value regardless of its age.
52. The Department of Culture may publicly call, and receive proposals of movable cultural properties to be registered in the Movable Cultural Property Register in accordance with the rules and regulations set forth under this Act.
53. Upon the call under section 52, an entity owning movable cultural property which deems to fulfil the criteria developed under section 48 shall submit the details of the movable cultural property to the Department of Culture through a Dzongkhag Administration or Dzongkhag Thromde Administration in accordance with the procedures stipulated in the rules and regulations set forth under this Act.

## **Registration and Designation of Heritage Sites**

54. A building shall be registered in the Heritage Building Register on the basis of the criteria developed under section 48, if:
  - (i) the building built before 1960 represents significant cultural heritage value; or
  - (ii) the building built after 1960 represents exceptional cultural heritage value.
55. A Registered Heritage Building shall be designated on the basis of the criteria developed under section 48, as:
  - (i) Important Heritage Building, if its cultural heritage value is identified as outstanding; or
  - (ii) Heritage Building of Special Importance, if its cultural heritage value is identified as outstanding and irreplaceable.
56. A cultural site shall be designated as Important Cultural Site, if its cultural heritage value is identified as outstanding.
57. An archaeological site shall be registered in the Archaeological Site Register, if the site represents significant cultural heritage value.
58. The Cultural Heritage Committee shall define the conservation zone of the Registered and Designated Heritage Building upon the recommendation of the Department of Culture in accordance with the rules and regulations set forth under this Act.
59. The Cultural Heritage Committee may, when deemed necessary, revise a conservation zone.
60. The Department of Culture shall consult a Dzongkhag Administration or Dzongkhag Thromde Administration prior to recommending to the Cultural Heritage Committee the registration and designation of heritage site and the identification and revision of conservation zone.

## **Registration and Designation of Intangible Cultural Heritage**

61. An intangible cultural heritage element existing in the territory of Bhutan that its bearer considers important to safeguard because of its cultural heritage value is to be registered in the Intangible Cultural Heritage Register.
62. The Department of Culture shall publicly call, and receive proposals of intangible cultural heritage elements to be registered in the Intangible Cultural Heritage Register in accordance with the rules and regulations set forth under this Act.



63. Subject to such call under section 62, any public office including the Dzongkhag, Dzongkhag Thromde, or the office under the Department of Culture shall submit to the Department of Culture a proposal to register an intangible cultural heritage element under its jurisdiction in the Intangible Cultural Heritage Register in accordance with the procedures stipulated in the rules and regulations set forth under this Act.
64. An entity including bearer of intangible cultural heritage is entitled to propose the registration to the relevant public office, which may, should it consider appropriate, submit such proposal to the Department of Culture.
65. A Registered Intangible Cultural Heritage element may be designated as Intangible Cultural Heritage of National Importance, if it is considered as representing cultural heritage value for the entire nation of Bhutan.
66. The Department of Culture shall consult stakeholders prior to recommending to the Cultural Heritage Committee a designation of a Registered Intangible Cultural Heritage element.

#### **Notification of Registration and Designation of Cultural Heritage**

67. When a movable cultural property or heritage site is registered or designated, the Department of Culture shall immediately communicate such decision to the Dzongkhag or Dzongkhag Thromde, and also where applicable the institutional entity recognized under section 84, which in turn shall communicate the decision to the owner of the property or site.
68. When a conservation zone is defined or revised, the Department of Culture shall immediately communicate such decision to the Dzongkhag Administration or Dzongkhag Thromde Administration which in turn shall communicate the decision to the owner of the zone.
69. When an intangible cultural heritage element is registered or designated, the Department of Culture shall immediately communicate such decision to the public office which submitted the proposal for registration and the public office shall in turn communicate the decision to the bearer of the element.
70. Registration of the movable cultural property shall come into effect from the day a copy of *Gangchen Thram* is issued to the owner of the property by the Department of Culture.
71. The original copy of the *Gangchen Thram* shall be maintained by the Department of Culture.

72. Registration or designation of a heritage site and an intangible cultural heritage, as well as identification or revision of the conservation zone shall come into effect from the day of the publication of notification under sections 73 and 74.
73. The Department of Culture shall publicly notify a decision of registration or designation of a heritage site and an intangible cultural heritage as well as identification of the conservation zone in the manner stipulated in the rules and regulations set forth under this Act.
74. The Department of Culture shall publicly notify the revision of the conservation zone in the same manner as that under section 73.
75. An entity is deemed to be notified of the decision on the day of the publication of notification under sections 73 and 74.

#### **Annulment of Registration and Designation**

76. When a Registered Movable Cultural Property is entirely lost due to fire, theft or any other reason and such loss has been verified by the Royal Bhutan Police, the Cultural Heritage Committee shall annul the registration of such movable cultural property.
77. The Department of Culture shall review the *Gangchen Thram* issued under section 70 to reflect such annulment and issue a copy of the revised *Gangchen Thram* to the owner, where relevant, in accordance with the rules and regulations set forth under this Act.
78. Where a Registered or Designated Heritage Site has lost its cultural heritage value which justified its registration or designation, the Cultural Heritage Committee shall annul the registration or designation of the heritage site upon the recommendation of the Department of Culture.
79. When a representative feature of Designated Intangible Cultural Heritage has been substantially modified or lost, the Cultural Heritage Committee may annul the designation upon the recommendation of the Department of Culture.
80. When the practice of a Registered Intangible Cultural Heritage is discontinued, it shall be removed from the Intangible Cultural Heritage Register.
81. The annulment of registration or designation of the heritage site or the intangible cultural heritage shall be publicized and a notification to the owner or the public office shall be issued in the same manner as that of its registration or designation.



## **Chapter 6: Owner, Caretaker and Bearer of Registered and Designated Cultural Heritage**

### **Owner of Registered or Designated Cultural Heritage**

82. Protection of a Registered Movable Cultural Property shall fall under the responsibility of the owner and such owner shall ensure security of the Registered Movable Cultural Property against loss and damages, and undertake appropriate protection measures in accordance with this Act.
83. Protection of a Registered or Designated Heritage Site and the conservation zone shall fall under the responsibility of the owner and such owner shall keep the building and site in good condition and implement necessary protection works in accordance with this Act and in case of the protection of the Designated Heritage Site, it shall be undertaken in accordance with the management plan prepared by the Department of Culture.
84. The Cultural Heritage Committee may, in accordance with the rules and regulations set forth under this Act, recognize an institutional entity which is the owner or customary custodian of considerable number of Registered Movable Cultural Properties and Registered or Designated Heritage Sites.
85. The entity under section 84 shall be responsible for:
  - (1) assessing the existing risk to cultural heritage value of all the Registered or Designated Cultural Heritage belonging to the institution;
  - (2) fulfilling the responsibility under sections 82 and 83, where applicable, in the order of priority in accordance with the degree of the risk;
  - (3) adopting its own policy and strategy for the sustainable use of Registered or Designated Cultural Heritage belonging to the institution, and ensuring that its application to be submitted to the Department of Culture for any works on its Registered or Designated Cultural Heritage reflects its said policy and strategy; and
  - (4) identifying an office-in-charge to manage the cultural heritage that belonging to the institution.

### **Appointment of a Caretaker**

86. An owner of a Registered Movable Cultural Property or a Registered or Designated Heritage Site may appoint a caretaker to delegate the responsibilities under section 82 or 83 where applicable.

87. An owner shall promptly notify the appointment of caretaker to the Dzongkhag or Dzongkhag Thromde.
88. When an owner of a Registered Movable Cultural Property or a Registered or Designated Heritage Site replaces a caretaker, the owner shall promptly notify the new appointment to the Dzongkhag or Dzongkhag Thromde.

### **Change of Ownership**

89. If an owner of a Registered Movable Cultural Property or a Registered or Designated Heritage Site intends to transfer its ownership, the owner shall obtain prior approval for such a proposed transfer from the Department of Culture in accordance with the rules and regulations set forth under this Act.
90. A local government shall not process the transfer application of Registered or Designated Heritage Site, unless the proposed transfer of ownership is approved by the Department of Culture.
91. An owner of a Registered Movable Cultural Property shall return the copy of *Gangchen Thram* to the Department of Culture on approval of the change in the ownership.
92. A copy of *Gangchen Thram* shall be issued to the new owner of the Registered Movable Cultural Property by the Department of Culture.

### **Registered or Designated Cultural Heritage without an Owner**

93. If an owner of a Registered Movable Cultural Property is not identified, such a property shall be under the custody of a suitable public office in accordance with the procedures stipulated in the rules and regulations set forth under this Act.
94. If an owner of a Registered or Designated Heritage Site is not identified, the Dzongkhag Administration or Dzongkhag Thromde Administration shall report the matter to the Department of Culture and such a heritage site shall be placed under the interim custody of the Dzongkhag Administration or Dzongkhag Thromde Administration until the Department of Culture appoints an appropriate custodian.

### **Bearer of Registered and Designated Intangible Cultural Heritage**

95. A bearer of a Registered or Designated Intangible Cultural Heritage element is encouraged to collectively take appropriate actions to ensure the viability of the element.



## **Chapter 7: Protection of Movable Cultural Properties**

### **Restriction to Movable Cultural Properties**

96. An entity shall not transport a Registered Movable Cultural Property outside the country, unless approved by the Cultural Heritage Committee.
97. An entity shall not transport a movable cultural property which is more than 100 years since its creation outside the country, unless approved by the Department of Culture.
98. An entity shall not transport a Registered Movable Cultural Property from a place where the property is registered, unless approved by the Department of Culture.
99. An entity shall not sell, give or exchange a Registered Movable Cultural Property or a movable cultural property which is more than 100 years since its creation to any non-Bhutanese entity.
100. An entity shall not damage or change the features of a Registered Movable Cultural Property.
101. An entity shall not undertake repair work to a Registered Movable Cultural Property, unless approved by the Department of Culture.

### **Measures to prevent Movable Cultural Properties from being transported outside the country**

102. The customs authorities, post or courier services shall apply appropriate customs control to prevent a Registered Movable Cultural Property or a movable cultural property which is more than 100 years since its creation from being transported outside the country.
103. An entity which intends to transport specific types of movable cultural property specified in the rules and regulations set forth under this Act outside the country shall obtain a transit permit on such movable cultural property from the Department of Culture prior to transportation.
104. The Department of Culture may refer to the Cultural Heritage Committee the decision to grant the transit permit under section 103, when it cannot identify the cultural heritage value or age of the property.
105. The authorities under section 102 shall seize the movable cultural property in case of violation against the provision under section 103.

106. The property seized under section 105 shall be examined by the Department of Culture and the property shall be:

- (1) dealt with in accordance with provisions under sections 130, 131, 132 and 133, if it is verified as a Registered Movable Cultural Property;
- (2) disposed off, after hundred and eight days from the day where the property was handed over to the Department of Culture, in accordance with the laws on custom control, if it is verified as a movable cultural property not included in the Movable Cultural Property Register. Notwithstanding this, the Department of Culture reserves the right to recommend to the Cultural Heritage Committee the registration of the property in the Movable Cultural Property Register, if it considers that the property satisfies the condition stipulated under section 51.
- (3) Disposed in accordance with the laws on custom control without retention, in cases other than (1) or (2).

### **Movable Cultural Property Database**

107. The Department of Culture shall maintain, update and secure the data on each Registered Movable Cultural Property including photographs, measurements, description of distinctive features and historical background.

108. A data under section 107 shall not be publicized, unless the Department of Culture determines it appropriate for the following purposes:

- (1) for the Royal Bhutan Police, the Department of Revenue and Customs and other relevant public offices to search the Registered Movable Cultural Property that has been reported lost or stolen;
- (2) for the Ministry of Foreign Affairs to request the foreign entity or the international organizations to cooperate for searching and recovering the Registered Movable Cultural Property that are deemed to have been taken outside the country;
- (3) for the Department of Culture to coordinate with relevant stakeholders to inspect protection status of the Registered Movable Cultural Property; or
- (4) any other cases where the Department of Culture determines that publicizing the data contributes to protection of the Registered Movable Cultural Property.

### **Loss of Registered Movable Cultural Properties**

109. When a Registered Movable Cultural Property has been lost or stolen, the owner or caretaker shall immediately report to the Royal Bhutan Police, the Dzongkhag or Dzongkhag Thromde, and also where applicable, the institutional entity recognized under section 84, which shall in turn immediately report to the Department of Culture.



110. When a Registered Movable Cultural Property has been lost or stolen during transportation or exhibition, the person-in-charge appointed under section 253 shall immediately report to the Royal Bhutan Police, the Department of Culture and the owner or caretaker.
111. The Department of Culture shall provide necessary data of the lost or stolen Registered Movable Cultural Property to the Royal Bhutan Police, the Department of Revenue and Customs and other relevant public offices including the Ministry of Foreign Affairs to search and prevent the property from being transported outside the country.

### **Damaged Registered Movable Cultural Properties**

112. When a Registered Movable Cultural Property has been damaged, the owner or caretaker shall immediately report to the Dzongkhag or Dzongkhag Thromde, and also where applicable, the institutional entity recognized under section 84, and secure the property including its broken parts against further damages and loss.
113. A Dzongkhag or Dzongkhag Thromde, and where applicable an institutional entity recognized under section 84 shall, on receipt of the report under section 112, immediately inform the Department of Culture.
114. The Dzongkhag or Dzongkhag Thromde, and the institutional entity recognized under section 84 shall examine the condition of the property and submit a report to the Department of Culture in accordance with the procedures stipulated in the rules and regulations set forth under this Act.
115. The Department of Culture shall instruct in writing the owner or caretaker to undertake appropriate protection measures including repair work and measures to prevent further damages where applicable.

### **Repair Work to Registered Movable Cultural Properties**

116. When any repair work on a Registered Movable Cultural Property is needed, the owner or caretaker shall seek prior approval from the Department of Culture in accordance with the procedures stipulated in the rules and regulations set forth under this Act.
117. The Department of Culture may approve the repair work applied for by an owner or caretaker, if it determines that such work is necessary for the protection of the Registered Movable Cultural Property. The approval shall contain necessary instructions for implementing the repair work.

118. An owner or caretaker shall appoint a conservator among those certified by the Department of Culture to undertake the repair work and notify the Department of Culture accordingly.
119. An appointed conservator shall submit to the Department of Culture a report on the repair work in accordance with the rules and regulations set forth under this Act.
120. The Department of Culture may delegate to the Dzongkhag Administration or Dzongkhag Thromde Administration the right to approve certain types of repair work.

### **Offering Registered Movable Cultural Properties into *Ten as Zung***

121. Where a Registered Movable Cultural Property is intended to be installed into *ten as zung*, an owner or caretaker of the property shall submit the proposal to the Department of Culture in accordance with the procedures stipulated in the rules and regulations set forth under this Act.
122. The Department of Culture shall prepare and maintain record of a Registered Movable Cultural Property which is proposed to be installed into *ten*. In case where the Registered Movable Cultural Property to be installed into *ten* carries written information, the Department of Culture shall ensure that all the contents of such written information is recorded and maintained in the national archive.
123. Installation process of a Registered Movable Cultural Property into *ten* shall be inspected and confirmed by the Dzongkhag or Dzongkhag Thromde, and also where applicable the institutional entity recognized under section 84.
124. Dzongkhag Administration or Dzongkhag Thromde Administration shall submit a report to the Department of Culture upon the completion of installation in accordance with the procedures stipulated in the rules and regulations set forth under this Act.

### **Inspection of Registered Movable Cultural Properties**

125. The Department of Culture, Dzongkhag Administration or Dzongkhag Thromde Administration and their authorized officers are entitled to inspect, survey and document Registered Movable Cultural Properties for the purpose of protection.
126. The Department of Culture shall periodically inspect the protection status of a Registered Movable Cultural Property in accordance with the rules and regulations set forth under this Act, in coordination with the Dzongkhag or Dzongkhag Thromde, the institutional entity recognized under section 84, and other relevant stakeholders.

127. When the Department of Culture considers it necessary, it shall instruct in writing the owner or caretaker of the Registered Movable Cultural Property to undertake appropriate protection measures including repair work and measures to prevent potential damages.

### **Recovery of Movable Cultural Properties**

128. If an entity discovers a movable cultural property that appears to be misappropriated from its owner or caretaker, the entity shall immediately report to the Royal Bhutan Police which in turn shall inform the Department of Culture.
129. When the Registered Movable Cultural Property that has been lost or stolen is discovered or seized outside the country, the Ministry of Foreign Affairs and other relevant entities shall, in consultation with the Department of Culture, take appropriate actions for its return to the country.
130. The Department of Culture, the Royal Bhutan Police, the Dzongkhag or Dzongkhag Thromde, and where applicable an institutional entity recognized under section 84 shall jointly verify the discovered or seized Registered Movable Cultural Property, appoint a temporary custodian until the procedures under section 131, 132 or 133 are completed, as well as prepare and submit a report to the Cultural Heritage Committee.
131. The discovered or seized Registered Movable Cultural Property verified under section 130 shall be returned to the owner in accordance with the procedures stipulated in the rules and regulations set forth under this Act, after ensuring that the owner will take due care of the property.
132. When an owner of a discovered or seized Registered Movable Cultural Property does not appear within hundred and eight days from the day of issuance of notification to the owner, it shall be placed under custody of a suitable public office, in accordance with the procedures stipulated in the rules and regulations set forth under this Act.
133. In case where an owner contributed to the loss or theft of the Registered Movable Cultural Property, the Department of Culture shall place the property under custody of a suitable public office.

### **Archaeological Remains**

134. If an archaeological remains are found during excavation of land in the course of civil or agricultural operation or other work, an entity in charge of the work shall:

- (1) inform the Dzongkhag Administration or Dzongkhag Thromde Administration and the Department of Culture of the discovery within ten days from the day of the discovery;
  - (2) cease the operations immediately and secure the site against possible damage or unauthorized access, until the entity receives instructions in writing from the Department of Culture; and
  - (3) retain the discovered remains untouched in the location they were found.
135. Upon receipt of the information of discovery under section 134, the Department of Culture may order suspension of the work for an appropriate period, and during this period, the Department of Culture may:
  - (1) ensure the security of the archaeological remains at the site, or where appropriate, remove archaeological remains from the site for study or protection;
  - (2) carry out study to determine if the archaeological remains are of cultural heritage value; or
  - (3) coordinate rescue excavation in collaboration with the entity responsible for the work.
136. The Department of Culture may advise the Cultural Heritage Committee, where appropriate, to register the remains in the Movable Cultural Property Register or the Archaeological Site Register, based upon the report on the study and rescue excavation.
137. Ownership of the registered remains shall be determined by the Cultural Heritage Committee in accordance with the procedures stipulated in the rules and regulations set forth under this Act.

## **Chapter 8: Management and Protection of Heritage Site**

### **Management Plan for Designated Heritage Site**

138. The Department of Culture shall, in consultation with the Dzongkhag Administration or Dzongkhag Thromde Administration, prepare a management plan of each Designated Heritage Building including its conservation zone as well as of each Important Cultural Site for the purpose of its protection.
139. A management plan shall come into effect upon approval by the Cultural Heritage Committee.
140. The Department of Culture shall notify the management plan to the owner through the Dzongkhag or Dzongkhag Thromde.
141. The Cultural Heritage Committee may, in consultation with the Department of Culture, amend the management plan, whenever it considers necessary.
142. The relevant public offices shall cooperate with the Department of Culture in preparing and amending the management plan.

### **Buffer Zone of Designated Heritage Site**

143. The Cultural Heritage Committee may define the buffer zone of a Designated Heritage Building or an Important Cultural Site upon the recommendation of the Department of Culture in accordance with the rules and regulations set forth under this Act and it may, when it considers necessary, revise the buffer zone.
144. The Department of Culture shall, consult the Dzongkhag Administration or Dzongkhag Thromde Administration, and other relevant public offices prior to recommending to the Cultural Heritage Committee the definition and revision of buffer zone.
145. A Dzongkhag Administration or Dzongkhag Thromde Administration shall prepare and submit to the Department of Culture development control regulations and plan of a buffer zone, in accordance with the rules and regulations set forth under this Act.
146. The Department of Culture may forward to the Cultural Heritage Committee a development control regulations and plan for approval, or advise a Dzongkhag Administration or Dzongkhag Thromde Administration necessary changes prior to seeking approval of the Cultural Heritage Committee.

147. The development control regulations and plan of a buffer zone shall come into effect upon approval by the Cultural Heritage Committee.
148. The Department of Culture shall publicly notify the buffer zone and the approved development control regulations and plan in the manner stipulated in the rules and regulations set forth under this Act.
149. An entity is deemed to be notified of the development control regulations on the day of the publication of notification under section 148.

#### **Risk Mitigation Plan for Registered and Designated Heritage Site**

150. A Dzongkhag Administration or Dzongkhag Thromde Administration shall prepare a risk mitigation plan for Registered Heritage Buildings.
151. A Dzongkhag Administration or Dzongkhag Thromde Administration shall prepare and submit to the Department of Culture a risk mitigation plan for each Designated Heritage Building as well as each Important Cultural Site, which shall be incorporated in the management plan.

#### **Restriction of Works on Registered and Designated Heritage Site**

152. An entity shall not execute any works including demolition, alteration, extension or renovation of a Registered or Designated Heritage Building, unless the Department of Culture approves such works.
153. An entity shall not execute any works including development activity, or demolition, alteration, extension or renovation of existing building in the Important Cultural Site, the Registered Archaeological Site, or the conservation zone of Registered or Designated Heritage Building, unless the Department of Culture approves such works.
154. An entity shall not collect archaeological remains from a Registered Archaeological Site.
155. Requirement to seek approval under sections 152 and 153 may be waived for the works of care and maintenance, minor repair of deterioration over time or the work that doesn't impair the cultural heritage value as stipulated in the rules and regulations set forth under this Act.

### **Approval for Works on Registered and Designated Heritage Site**

156. Where any work under sections 152 and 153 needs to be implemented, an owner or caretaker of the building or site shall submit application for the work to the Dzongkhag Administration or Dzongkhag Thromde Administration in accordance with the procedures stipulated in the rules and regulations set forth under this Act.
157. In case a Registered or Designated Heritage Site belongs to an institutional entity recognized under section 84, the application shall contain the approval issued by the institution's office-in-charge of management of heritage site.
158. A Dzongkhag Administration or Dzongkhag Thromde Administration shall verify and forward to the Department of Culture the application under section 156, once a year during a period stipulated in the rules and regulations set forth under this Act.
159. The Department of Culture may approve a work under section 158, if it determines that such work is necessary for the protection or sustainable use of the building or site. The approval shall contain necessary instructions for implementing the works.
160. Notwithstanding section 159, the Department of Culture may instruct an owner or caretaker of Designated Heritage Building, Important Cultural Site or Registered Archaeological Site to undertake works specified in the project plan under section 164 or 167.
161. The Department of Culture may delegate to a Dzongkhag Administration or Dzongkhag Thromde Administration the right to approve certain types of works in accordance with the rules and regulations set forth under this Act.

### **Project Plan for Designated Heritage Site and Registered Archaeological Site**

162. The Dzongkhag Administration or Dzongkhag Thromde Administration shall annually submit to the Department of Culture a report on the state of protection of all the Designated Heritage Sites under its jurisdiction in accordance with the procedures stipulated in the rules and regulations set forth under this Act. The report shall include assessment of the works applied by the owner or caretaker under section 156.
163. The Department of Culture shall annually identify those Designated Heritage Buildings including conservation zone, Important Cultural Sites and Registered Archaeological Sites for which it determines necessary to implement protection works in that year on the basis of the annual report submitted by a Dzongkhag Administration or Dzongkhag Thromde Administration under section 162.

164. The Department of Culture shall, in consultation with a Dzongkhag or Dzongkhag Thromde, and where applicable an institutional entity recognized under section 84, prepare a project plan of protection work for each Designated Heritage Building and its conservation zone identified under section 163, on the basis of its management plan.
165. A Dzongkhag Administration or Dzongkhag Thromde Administration shall, in consultation with owners and residents, prepare and submit to the Department of Culture a project plan of protection work for each Important Cultural Site identified under section 163, on the basis of its management plan.
166. A Dzongkhag Administration or Dzongkhag Thromde Administration shall, in consultation with an owner, prepare and submit to the Department of Culture a project plan of protection work for each Registered Archaeological Site identified under section 163.
167. The Department of Culture may approve the project plan submitted under sections 165 and 166 or advise the Dzongkhag Administration or Dzongkhag Thromde Administration necessary changes.

#### **Execution of Work on Registered and Designated Heritage Site**

168. An owner or caretaker of a Registered or Designated Heritage Building or its conservation zone shall execute the work in accordance with the instructions issued under section 159 or the project plan under section 164.
169. An owner of a Registered or Designated Heritage Building shall employ a heritage inspector among those certified by the Department of Culture to carry out and submit to the Department of Culture necessary documentation of the building in accordance with the rules and regulations set forth under this Act.
170. An owner or caretaker shall not commence the work unless the documentation under section 169 is endorsed by the Department of Culture.
171. The work under section 168 shall be undertaken with due care and appreciation to historic fabric, distinctive form and materials of the Registered or Designated Heritage Building.
172. An owner or caretaker shall be responsible for preventing materials removed from a Registered or Designated Heritage Building from loss, weathering or deterioration, until the Department of Culture verifies cultural heritage value of such materials and issue further instructions in writing.



173. An individual owner or the group of owners of building or land in the Important Cultural Site shall execute the work in accordance with the instructions issued under section 159 or the project plan under section 167.
174. A Dzongkhag Administration or Dzongkhag Thromde Administration shall coordinate individual works under the project plan for Important Cultural Site.
175. An owner of a Registered Archaeological Site, or where appropriate, Dzongkhag Administration or Dzongkhag Thromde Administration on behalf of an owner shall execute the work in accordance with the instructions issued under section 159 or the project plan under section 167.
176. A Dzongkhag Administration or Dzongkhag Thromde Administration shall monitor the work on a Registered or Designated Heritage Site to ensure that it is carried out according to the instructions or the project plan, and submit a work progress report to the Department of Culture in accordance with the rules and regulations set forth under this Act.
177. The Department of Culture may, whenever it deems necessary, inspect the progress of the work and issue further instructions in writing to ensure appropriate implementation of the work.

#### **Work in Buffer Zone of Designated Heritage Site**

178. An entity which intends to undertake development activity in a buffer zone of a Designated Heritage Building or of an Important Cultural Site shall ensure the work complies with the development control regulations publically notified under section 148 and seek a development permit from the Dzongkhag Administration or Dzongkhag Thromde Administration.
179. A Dzongkhag Administration or Dzongkhag Thromde Administration may issue a development permit for the development activity in accordance with the development control regulations stipulated in the management plan.
180. A Dzongkhag Administration or Dzongkhag Thromde Administration shall report the issuance of such a development permit to the Department of Culture.
181. A Dzongkhag Administration or Dzongkhag Thromde Administration shall monitor the work in a buffer zone to ensure that it is carried out according to the development permit.

182. Where a development control regulations limits the development activity, no claim may be made against any authority for any reduction in value of the land or building resulting from the regulations.

### **Risk Mitigation Measures for Registered and Designated Heritage Site**

183. A Dzongkhag Administration or Dzongkhag Thromde Administration shall annually identify Registered and Designated Heritage Sites for which risk mitigation measures need to be implemented in that year, based on the degree of existing risk.
184. A Dzongkhag Administration or Dzongkhag Thromde Administration shall, in consultation with the owner or caretaker prepare and submit to the Department of Culture a project plan of risk mitigation measures for each Registered or Designated Heritage Site identified under section 183, on the basis of the risk mitigation plan under section 150 or 151.
185. The Department of Culture may approve the project plan submitted under section 184 or advise a Dzongkhag Administration or Dzongkhag Thromde Administration to change the plan.
186. A Dzongkhag Administration or Dzongkhag Thromde Administration shall execute risk mitigation measures in accordance with the project plan.
187. A Dzongkhag Administration or Dzongkhag Thromde Administration shall submit to the Department of Culture a report on risk mitigation measures undertaken in accordance with the rules and regulations set forth under this Act.

### **Emergency Protection for Registered and Designated Heritage Site**

188. An owner or caretaker of a Registered or Designated Heritage Site shall immediately inform the Dzongkhag Administration or Dzongkhag Thromde Administration in case of imminent danger of destruction or damage to the Registered or Designated Heritage Site.
189. Where a whole or a part of building of the Registered or Designated Heritage Site has been destroyed or damaged, irrespective of the extent and the cause of such destruction or damage, the owner or caretaker of the Registered or Designated Heritage Site shall inform the Dzongkhag Administration or Dzongkhag Thromde Administration within ten days from the day where the owner or caretaker discovers the destruction or damage.

190. A Dzongkhag Administration or Dzongkhag Thromde Administration shall, on receipt of information of imminent danger, destruction or damage of the Registered or Designated Heritage Site, immediately inform the Department of Culture.
191. An owner or caretaker of the Registered or Designated Heritage Site shall, with technical assistance from the Dzongkhag or Dzongkhag Thromde, execute emergency protection measures to prevent further destruction or damage. Notwithstanding this, the Dzongkhag Administration or Dzongkhag Thromde Administration shall execute emergency protection measures for the Registered Archaeological Site.
192. A Dzongkhag Administration or Dzongkhag Thromde Administration shall submit to the Department of Culture a report on emergency protection measures undertaken in accordance with the rules and regulations set forth under this Act.
193. In case of destruction of a large number of Registered or Designated Heritage Sites during a disaster classified as Type III under the Disaster Management Act of Bhutan 2013, the chairperson of Cultural Heritage Committee may adopt special procedures and measures for emergency protection.
194. When the Department of Culture is satisfied that an imminent danger under section 188 is due to a neighbouring building or site profile of neighbouring land, the chairperson of Cultural Heritage Committee may order the owner of neighbouring building or land to undertake appropriate measures to remove the danger to the Registered or Designated Heritage Site.
195. In case the owner is not known or the owner doesn't follow the order under section 194, the chairperson of Cultural Heritage Committee may, without the consent of the owner, order the Dzongkhag Administration or Dzongkhag Thromde Administration to execute appropriate measures to remove the danger.
196. In the event of fire, the decision to dismantle a certain part of the Registered or Designated Heritage Building or building in the Important Cultural Site may be taken by the entity defined in the risk mitigation plan under section 150 or 151, in order to prevent the fire from spreading to other parts of the building.

## **Chapter 9: Safeguarding of Intangible Cultural Heritage**

### **Safeguarding of Registered Intangible Cultural Heritage**

197. A public office which submitted a proposal for registration under section 63 shall be responsible for safeguarding the Registered Intangible Cultural Heritage element, and submitting a report on the status of its viability and the safeguarding measures undertaken to the Department of Culture in accordance with the rules and regulations set forth under this Act.
198. Safeguarding measures may include:
- (1) subsidies and incentives to the bearer;
  - (2) capacity building of the bearer;
  - (3) inclusion of Intangible Cultural Heritage element into the school curriculum;
  - (4) survey, research and documentation;
  - (5) public awareness raising through media, publication, exhibition and concerts.
199. Safeguarding measures should be developed and implemented with the participation and consent of the concerned Intangible Cultural Heritage bearer.
200. The Department of Culture shall monitor the execution of safeguarding measures and may advise the concerned public office on the modalities of safeguarding.

### **Safeguarding of Intangible Cultural Heritage of National Importance**

201. If a Registered Intangible Cultural Heritage element is designated as the Intangible Cultural Heritage of National Importance, a public office referred to in section 197 shall continue to take the same responsibility under section 197.
202. Relevant public offices other than the public office under section 201 shall support the safeguarding of Intangible Cultural Heritage of National Importance in their respective capacity in a recurrent manner and submit the report to the Department of Culture in accordance with the rules and regulations set forth under this Act.
203. Public offices under sections 201 and 202 may individually or collectively develop and execute special projects for Intangible Cultural Heritage of National Importance, with the participation and consent of the bearer.
204. The Department of Culture shall encourage and coordinate inter-ministerial planning and execution of special projects under section 203.

205. A Bearer of a Designated Intangible Cultural Heritage element may request the public offices to initiate a special project.
206. Notwithstanding section 202, the Cultural Heritage Committee may, upon the recommendation of the Department of Culture, identify and request relevant public offices to develop and execute safeguarding measures and special projects.
207. The Department of Culture shall monitor the execution of safeguarding measures and special projects, and may advise the public offices on the modalities of safeguarding measures or nature of the special project.

### **Urgent Safeguarding Measures**

208. If a public office under section 197 or 201 determines that a Registered or Designated Intangible Cultural Heritage element under its responsibility is at imminent risk of total or partial discontinuity, it shall develop and execute urgent safeguarding plan with the participation and consent of its bearer.
209. A bearer of a Registered Intangible Cultural Heritage element may request the relevant public office to initiate urgent safeguarding plan.
210. Notwithstanding section 208, the Cultural Heritage Committee may, upon the recommendation of the Department of Culture, identify and request the relevant public offices to develop and execute urgent safeguarding plan.
211. A public office executing urgent safeguarding plan shall submit a report on measures taken and their impact to the Department of Culture in accordance with the rules and regulations set forth under this Act.
212. The Department of Culture shall monitor the execution of urgent safeguarding plan and may advise the public office on the modalities and nature of the plan.

## **Chapter 10: Incentives**

### **Incentives for the Protection and Safeguarding of Registered and Designated Cultural Heritage**

213. The Cultural Heritage Committee shall publicly celebrate the registration and designation of the cultural heritage and recognize mastery of good skills and good practises of protection or safeguarding of a Registered and Designated Cultural Heritage.
214. A relevant authority of the Government shall determine provision of incentives for enhancing sustenance of Registered and Designated Cultural Heritage, including:
- (1) providing tax exemption to owners of Registered or Designated Heritage Sites or bearer of Registered or Designated Intangible Cultural Heritage;
  - (2) providing basic public services and infrastructure to Designated Heritage Sites on a priority basis;
  - (3) providing subsidies on local materials for undertaking protection measures and repair work to Registered Movable Cultural Property or protection work to Registered or Designated Heritage Site;
  - (4) offering reduction or waiver of customs and other duties for imported materials for protection measures and repair work to Registered Movable Cultural Property or protection work to Registered or Designated Heritage Site; and
  - (5) ensuring adequate valuation of buildings and lands in Registered and Designated Heritage Sites by financial institutions.
215. A relevant authority of the Government shall, in consultation with the Department of Culture, determine the annual quota of subsidized timber for the protection work to Registered or Designated Heritage Buildings and buildings in Important Cultural Sites or Registered Archaeological Sites.
216. The Department of Culture decide the allocation of the subsidized timber for individual protection work undertaken in that year, within the amount determined by the authority under section 215.
217. An incentive provided for an Important Cultural Site shall include measures to enhance collaborative management by the local communities.

### **Financial Assistance for Registered and Designated Cultural Heritage**

218. An owner of a Registered Movable Cultural Property intending to undertake the repair work under section 116 may apply to the Department of Culture for financial assistance

in accordance with the procedures stipulated in the rules and regulations set forth under this Act.

219. The Ministry of Home and Cultural Affairs may, upon the recommendation of the Department of Culture, consider providing financial assistance from its annual budget and determine the amount of assistance based on the type of work and financial status of the owner.
220. An owner of a Registered Heritage Building and its conservation zone or a Registered Archaeological Site intending to undertake the work under section 168 may apply to the Dzongkhag Administration or Dzongkhag Thromde Administration for financial assistance in accordance with the procedures stipulated in the rules and regulations set forth under this Act.
221. A Dzongkhag Administration or Dzongkhag Thromde Administration may consider providing financial assistance from its annual budget and determine the amount of assistance based on the type of work and financial status of the owner.
222. An owner of a Designated Heritage Building and its conservation zone, or an individual owner or the group of owners of building or land in an Important Cultural Site intending to undertake the work under section 168 may apply to the Department of Culture for financial assistance in accordance with the procedures stipulated in the rules and regulations set forth under this Act.
223. The Ministry of Home and Cultural Affairs may, upon the recommendation of the Department of Culture, consider providing financial assistance from its annual budget and determine the amount of assistance based on the type of work and financial status of the owner.
224. The Department of Culture shall provide the financial assistance determined under section 223 to a Dzongkhag Administration or Dzongkhag Thromde Administration in instalments on the basis of the work progress report submitted under section 176.
225. Expenses incurred in implementing the risk mitigation measures shall be borne by the Dzongkhag Administration or Dzongkhag Thromde Administration from its annual budget.
226. An owner or caretaker of a Registered or Designated Heritage Site intending to undertake emergency protection measures under section 191 may apply to the Dzongkhag Administration or Dzongkhag Thromde Administration for financial assistance in accordance with the procedures stipulated in the rules and regulations set forth under this Act.

227. A Dzongkhag Administration or Dzongkhag Thromde Administration may either consider providing financial assistance from its annual budget or forward such application to the Cultural Heritage Committee for financial assistance under the Cultural Heritage Fund.
228. Expenses incurred in undertaking safeguarding measures to Registered or Designated Intangible Cultural Property under section 197 or 202 shall be borne by the public office from its annual budget.
229. A public office intending to undertake the special project for safeguarding of the Intangible Cultural Heritage of National Importance as per the provisions under section 203 may request a relevant authority of the Government for financial assistance.
230. A public office intending to execute the urgent safeguarding plan of a Registered or Designated Intangible Cultural Heritage as per the provisions under section 208 may apply for financial assistance under the Cultural Heritage Fund in accordance with the procedures stipulated in the rules and regulations set forth under this Act.

### **Charging Fees**

231. An owner of a Registered Movable Cultural Property or Registered or Designated Heritage Site, or a bearer of Registered or Designated Intangible Cultural Heritage may collect fees from visitors to enhance the sustenance of the Cultural Heritage.
232. An owner or bearer shall seek approval of the Department of Culture through the Dzongkhag Administration or Dzongkhag Thromde Administration in accordance with the procedures stipulated in the rules and regulations set forth under this Act and in case of the Cultural Heritage belonging to an institutional entity recognized under section 84, the application shall contain the sanction issued by the institution's office-in-charge of management of cultural heritage.
233. An approval may be issued by the Department of Culture for a certain period of time, subject to renewal.
234. An owner or bearer shall display permit for collecting fees issued under section 232 in a manner visible to the visitors.
235. An owner or bearer of a Registered or Designated Cultural Heritage shall spend a part of the fees for the sustenance of the Registered or Designated Cultural Heritage. The percentage of collected fees to be spent for the sustenance shall be specified in the approval under section 232.



236. An owner or bearer shall maintain books of accounts with the detailed breakdown on earnings from the fees and spending for the sustenance of the Registered or Designated Cultural Heritage.

## **Chapter 11: Utilization of Cultural Heritage**

### **Use of Building or Land in Registered and Designated Heritage Site**

237. When an owner or caretaker intends to change the use of building or land of the Registered or Designated Heritage Site, the owner shall obtain prior approval of the Department of Culture through the Dzongkhag Administration or Dzongkhag Thromde Administration in accordance with the procedures stipulated in the rules and regulations set forth under this Act.
238. The Department of Culture may approve the change of use of the building or land, if it determines that the building or site could be better protected by such change and such approval shall not derogate from the prohibition and restriction related to building or land use under any other laws.

### **Rental or Lease of Registered and Designated Heritage Site**

239. If an owner of a Registered or Designated Heritage Site intends to lease the building or land in the heritage site to an entity shall obtain prior approval from the Department of Culture.
240. An application of lease shall include lease period and terms of condition on care and management of the building or land during the lease period.
241. The Department of Culture may approve the lease of the building or land, if it determines that the building or site could be better protected by such lease and such approval shall not derogate from the prohibition and restriction related to building or land use under any other laws.
242. The Department of Culture may rent the building or land in a Registered or Designated Heritage Site for a fixed period agreed upon between the owner and the Department if it determines that the building or site could be better protected by such rent.
243. Management of the building or land shall be implemented in the condition of lease agreed upon between the owner and the Department.

### **Installation of Objects in Registered and Designated Heritage Building**

244. When an owner or caretaker intends to install objects to a Registered or Designated Heritage Building, the owner or caretaker shall ensure that such objects do not affect the cultural heritage value of the building.

245. If the Department of Culture determines that cultural heritage value of the building has been adversely affected by installation of objects, it shall instruct the owner or caretaker to remove or change such installed objects.

### **Survey, Documentation and Exhibition of Registered or Designated Cultural Heritage**

246. An entity which intends to carry out survey, research, documentation, photographing or filming or organize exhibition of the Registered or Designated Cultural Heritage shall obtain consent of the owner or bearer.
247. An entity shall not carry out photography or filming of Registered Movable Cultural Property or the interior of Registered or Designated Heritage Building unless approved by the Cultural Heritage Committee and such photograph or film shall be used only for the purpose specified in the approval issued by the Cultural Heritage Committee.
248. An entity which intends to conduct a survey, research or documentation, or organize an exhibition of Registered Movable Cultural Property or Registered or Designated Heritage Site shall seek prior approval for such a proposal from the Department of Culture in accordance with the procedures stipulated in the rules and regulations set forth under this Act.
249. Approval of a proposal under section 248 may be issued, if such survey, research, documentation or exhibition is determined to satisfy the policy and strategy of management and protection of a Registered or Designated Cultural Heritage.
250. Notwithstanding section 248, in case the exhibition of Registered Movable Cultural Properties is proposed to be held outside the country, the proposal shall be approved by the Cultural Heritage Committee, and such approval shall not be issued unless the Cultural Heritage Committee verifies the insurance certificate of all the Registered Movable Cultural Properties.
251. A foreign entity which intends to carry out survey, research, documentation, photography or filming or organize an exhibition of a Registered or Designated Intangible Cultural Heritage shall seek prior approval from the Department of Culture in accordance with the procedures stipulated in the rules and regulations set forth under this Act and such photograph or film shall be used only for the purpose specified in the approval issued by the Department of Culture.
252. An entity shall submit a report of the survey, research, documentation, photography, filming or exhibition of the Registered or Designated Cultural Heritage under section 247, 248 or 251 to the Department of Culture in accordance with the procedures stipulated in the rules and regulations set forth under this Act.

253. An entity which proposed the exhibition of the Registered Movable Cultural Properties shall, with the consent of the owner, appoint a person-in-charge who is responsible for the custody of the Registered Movable Cultural Properties during the transportation and exhibition and notify the Department of Culture of such appointment.
254. The Department of Culture shall maintain the list of Registered Movable Cultural Properties to be transported outside the country for an exhibition, and examine the condition of all the Registered Movable Cultural Properties in the presence of the owner and the person-in-charge appointed under section 253 when the properties are taken from and returned to the country, and submit a report to the Cultural Heritage Committee.

### **Prior Informed Consent and Acknowledgement for use of Intangible Cultural Heritage Elements**

255. An entity shall recognize that an intangible cultural heritage is the result of inter-generational and collective creative efforts, and shall obtain the prior informed consent of the bearer of intangible cultural heritage element for its use.
256. An entity which uses an intangible cultural heritage element shall duly acknowledge that such use is based on the intangible cultural heritage element.

## **Chapter 12: Enforcement**

### **Heritage Conservation Order**

257. The Department of Culture shall have the right to issue a Heritage Conservation Order to instruct the suspension, revision, or implementation of works, if:
- (1) works are executed without fulfilment of the required procedure in violation of section 116, 152, 153, 170 or 178;
  - (2) works do not comply with the instructions or the project plan under section 117, 168, 173, 175 or 177;
258. A Heritage Conservation Order shall come into effect from the day of the receipt of the Order by the entity responsible for the works.
259. An entity shall comply with the instructions of the Heritage Conservation Order under section 257.
260. A Dzongkhag Administration or Dzongkhag Thromde Administration shall monitor the execution of the instructions in the Heritage Conservation Order by the entity responsible for the works.
261. An entity responsible for the works shall bear all costs incurred to implement the instructions in the Heritage Conservation Order.

### **Acquisition and Purchase**

262. Notwithstanding anything contained in the Land Act 2007, the Cultural Heritage Committee may, after serving due notice, acquire the Registered Movable Cultural Property or the Registered or Designated Heritage Site irrespective of the consent of the owner, if it determines that the property or site is at the risk of losing its cultural heritage value under the present ownership.
263. The Cultural Heritage Committee may, after serving due notice, acquire a part of the building of Registered or Designated Heritage Site which was removed from the building irrespective of the consent of the owner, if it determines that the part bears cultural heritage value and is at risk of loss under the present ownership.
264. The Department of Culture may purchase the movable cultural property or heritage site for the purpose of protection and exhibition.

265. The acquisition under sections 262, 263 and 264 shall be made in accordance with the rules and regulations set forth under this Act.

### **Interim Protection Order**

266. The Department of Culture may, in consultation with the Dzongkhag or Dzongkhag Thromde, issue an Interim Protection Order to suspend any works in a non-registered or non-designated heritage site if the Department of Culture determines that the site bears potential to be registered or designated under this Act.

267. An Interim Protection Order shall contain such conditions as may be specified by the Department of Culture.

268. An Interim Protection Order shall come into effect on the day of the receipt of the order by the entity responsible for the work.

269. An entity shall comply with the Interim Protection Order under section 266.

270. An Interim Protection Order shall be in force up to sixty days and the Department of Culture may extend the period if additional time for registration or designation is needed.

271. No claim may be made against the Department of Culture for any losses and costs incurred on account of the suspension of the works issued under section 266.

### **Chapter 13: Offences and Penalties**

272. An entity which violates the provision under section 96, 97, 98, 99, 100, 109, 110, or 154 commits a criminal offence and shall be liable as per Penal Code of Bhutan. If the Cultural Heritage Committee determines that the offense has impact on the cultural heritage value of the property, the entity shall be ordered to revert the property to the original state at its own cost.
273. An entity which violates the provision under section 53, 89, 91, 115, 116, 118, 121, 189, 232, 235, 247, 248, 251, or 252 shall be fined an amount as may be prescribed by the Cultural Heritage Committee in the rules and regulations set forth under this Act.
274. An entity which violates the provision under section 101, 112, 134, 152, 153, 168, 170, 172, 173, 175, 191, 259, or 269 shall be fined an amount as may be prescribed by the Cultural Heritage Committee in the rules and regulations set forth under this Act and shall be ordered to suspend the work. If the Cultural Heritage Committee determines that the offense has impact on the cultural heritage value of the property or site, the entity shall be ordered to revert the property or site to the original state at its own cost.
275. An entity which violates the provision under section 178 shall be fined by the Dzongkhag Administration or Dzongkhag Thromde Administration in accordance with the development control regulations and shall be ordered to suspend the activity.
276. An entity which violates the provision under section 37 or 44 shall be fined an amount as may be prescribed by the Cultural Heritage Committee in the rules and regulations set forth under this Act and shall be ordered to suspend the development activity of which the Department of Culture determined that it affects the sustenance of the cultural landscape.
277. An amount of fine shall be determined in proportion to the gravity of the violation and degree of importance of the cultural heritage value of the Cultural Heritage.
278. An imposition of a fine under this Act shall not exempt an entity from prosecution for offences under any other laws.

## Chapter 14: Miscellaneous

### Vacancy or defect in appointment of Cultural Heritage Committee

279. No act or proceeding of the Cultural Heritage Committee shall be invalid by reason only of the existence of any vacancy amongst its members or any defect in the constitution thereof.

### Amendment

280. The amendment of this Act by way of addition, variation or repeal may be effected only by Parliament.

### Power to make rules and regulations

281. The Department of Culture may, with the approval of the Prime Minister of Bhutan, frame rules and regulations from time to time to carry out the provisions of this Act.

### Authoritative text

282. The Dzongkha text is authoritative text in case of any difference in meaning between the Dzongkha and the English text.

### Definitions

283. In this Act:

“**Archaeological Site**” includes:

- (i) a ruin or remains of a building which bears cultural heritage value; or
- (ii) an area in which any material remains of the past are discovered and may potentially have cultural heritage value.

“**Bearer**” means a community, a group and in some cases an individual, who creates, maintains and transmits intangible cultural heritage.

“**Buffer zone**” means the area surrounding the conservation zone of the Designated Heritage Building or the Important Cultural Site for effective protection of Designated Heritage Building or Important Cultural Site.

“**Building**” includes any structure, works and fixtures, and any part thereof.



“**Caretaker**” means an individual who is the primary custodian of a Registered Movable Cultural Property or a Registered or Designated Heritage Building appointed by the owner of the property or building.

“**Conservation Zone**” means the area surrounding the Registered Heritage Building or the Designated Heritage Building that contribute to enhance the cultural heritage values of the Registered Heritage Building or the Designated Heritage Building and may include cultural elements and natural features such as land, cliff, forest, gorges, river, lake, rock, cave, tree and other geological formations.

“**Cultural Heritage**” comprises of:

- (i) movable cultural property;
- (ii) heritage site; and
- (iii) intangible cultural heritage.

“**Cultural heritage value**” shall be understood as aesthetic, architectural, archaeological, historical, scientific, religious or spiritual significance that is of importance to the nation of Bhutan.

“**Cultural Landscape**” means a landscape, which has evolved from the interaction of the people with the nature, and consists of cultural and natural elements that can reveal the aspects of the country’s culture, origins, development, and distinctiveness.

“**Cultural Site**” includes:

- (i) a group of traditional buildings with its natural setting, the combination of which bears cultural heritage value; or
- (ii) a geographical area whose association with human settlement, activities or beliefs bears cultural heritage value.

“**Development activity**” includes:

- (i) the construction or placing of a building or other structure on, over or under land;
- (ii) a change in the use or intensity of use of a building or land;
- (iii) the excavation of land;
- (iv) the removal of soil or vegetation from land; and
- (v) the deposit or stockpiling of soil or material on land.

“**Dzongkhag Administration**” means the Dzongkhag Administration of the area where the cultural heritage is located.

“**Dzongkhag Thromde Administration**” means the Dzongkhag Thromde Administration of the area where the cultural heritage is located.

“**Dzongkhag Tshogdu**” means the Dzongkhag Tshogdu of the area where the cultural heritage is located.

“**Dzongkhag Thromde Tshogde**” means the Dzongkhag Thromde Tshogde of the area where the cultural heritage is located.

“**Entity**” includes both institution and private person, irrespective of its nationality.

“**Gangchen Thram**” means a list of registered movable cultural properties belong to a lhakhang or an owner.

“**Gewog Administration**” means the Gewog Administration of the area where the cultural heritage is located.

“**Heritage Building**” includes:

- (i) any Dzong, temple and other religious structure, palace, and *naktshang*;
- (ii) vernacular house of cultural heritage value; or
- (iii) other built structure such as bridge, watermill, water canal and wall of cultural heritage value.

“**Heritage Site**” means:

- (i) Heritage Building;
- (ii) Cultural Site; and
- (iii) Archaeological Site.

“**Intangible Cultural Heritage**” means practices, representations, knowledge and skills that are transmitted from generations to generations, which communities, groups and in some cases individuals in Bhutan recognize as part of their cultural heritage. It includes:

- (i) oral traditions;
- (ii) religious/spiritual practices;
- (iii) arts and crafts;
- (iv) folk knowledge and customs;
- (v) cultural events;
- (vi) games and sports; and
- (vii) language and dialects.

“**Intangible Cultural Heritage element**” means individual and specific form of Intangible Cultural Heritage.

“**Movable Cultural Property**” includes:

- (i) any movable object resulting from human creation of cultural heritage value, including *Ku Sung Thug Ten*, ritual objects and ornaments, weapons, furniture, carpets, dress, traditional arts and crafts, tools, instruments, archaeological relics and part removed from heritage buildings; or

- (ii) any movable object formed by nature to which cultural heritage value is historically attributed.

“**Owner**” means the owner of a Registered Movable Cultural Property or a Registered or Designated Cultural Heritage Site, as well as other equivalent entity which has customary responsibility of the property or site; and includes amongst others Government institution, *ZhungDratshang*, religious organization, *Latruel*, Community, or a private person.

“**Protection**” means the retention of cultural heritage value of a movable cultural property or heritage site, and includes amongst others the following measures:

- (i) care and maintenance of cultural heritage;
- (ii) conservation of cultural heritage which include preservation, repair, renovation, rehabilitation, consolidation or restoration of cultural heritage; or
- (iii) risk mitigation of cultural heritage.

“**Public office**” includes:

- (i) any establishment or office of the administration of the central or local government of Bhutan;
- (ii) any statutory body wholly or substantially controlled or financed by the central or local government of Bhutan, or by any agencies constituted by the central or local government of Bhutan.

“**Safeguarding**” means the measures aimed at ensuring the viability of the intangible cultural heritage, and includes identification, survey, research or documentation of intangible cultural heritage, preservation, promotion or enhancement of intangible cultural heritage, transmission through both formal and non-formal education, and revitalization of the various aspects of intangible cultural heritage.

“**Sustenance**” in relation to cultural heritage means protection of movable cultural property or heritage site, as well as safeguarding of intangible cultural heritage.