

THE EVIDENCE BILL OF BHUTAN, 2005

Preamble

In obedience to His Majesty the Druk Gyalpo Jigme Singye Wangchuck's vision for enlightened laws to pursue justice "no person shall be convicted on the basis of suspicion, doubt or hearsay until the charges are proven and supported by witnesses or evidences", and to consolidate the Law of Evidence, it is hereby enacted as follows:

CHAPTER 1 PRELIMINARY

Title, commencement and extent

1. This Act shall:
 - (a) Be called the Evidence Act of Bhutan, 2005;
 - (b) Come into force on the Twenty Eighth Day of the Ninth Month of the Wood Bird Year, which corresponds to the Twenty Ninth Day of Eleventh Month of the Year 2005; and
 - (c) Extend to legal proceedings in any Royal Court of Justice in the Kingdom of Bhutan.

Repeal

2. The following provisions of laws in force are hereby repealed: Sections DA-1.7, 2.12, 3.6, 3.7, 3.8, 3.9, 3.11, 3.12, 3.13 and 3.14 of the Thrimzhung Chhenmo, 1959.

CHAPTER 2 GENERAL PROVISIONS

Evidence

3. Evidence means all types of proof or probative matter presented and permitted by the Court at a legal proceeding by the act of the parties or required by the Court on its own through the medium of witnesses, documents inclusive of electronic records and physical evidence in relation to matters under inquiry.

Types of evidence

4. Evidence shall be categorized into the following types:

- (a) Testimonial;
- (b) Documentary including electronic records;
- (c) Physical; and
- (d) Expert opinion.

5. Evidence may be:

- (a) Direct; or
- (b) Circumstantial or indirect.

Examination of evidence

6. Evidence may be examined by the:

- (a) Plaintiff or prosecutor;
- (b) Defendant or victim;
- (c) Witnesses; and
- (d) Court.

Objections to evidence

7. If a party believes that any evidence, including oral, physical, or documentary is improper under the Evidence Act, then that party shall at the time the evidence is given or sought to be given, state the grounds why the evidence is improper with specific reference to the applicable section of the Evidence Act.

8. When a party objects to evidence, the Court shall rule whether the evidence can be given or not and may hear arguments from either party on whether the evidence is admissible or not.

Waiver of objections to evidence

9. If a party fails to object to evidence at the time it is introduced, then that party shall be deemed to have waived the right to object to the admission of that evidence thereafter and on any appeal.

Offer of proof

10. If a party believes that the Court wrongfully refused to admit evidence, then that party shall at the time the Court rules against admissibility, state the type of evidence excluded and what the evidence consisted and would have proved.

Limited admissibility of evidence

11. When evidence that is admissible as to one party or for one purpose but not admissible as to another party or for another purpose is admitted, the Court, upon request of a party or on its own, shall have the discretion to restrict the evidence to its proper scope and instruct the parties accordingly.

Full understanding of words and documents

12. Evidence shall be given of so much and no more of a statement, conversation, or document as the Court considers necessary to provide a full understanding of the nature and effect of the statement, conversation or document and with respect to a statement of conversation, the circumstances under which it was made or took place.

Illegible characters and words

13. Evidence may be given to show the meaning of the following:
- (a) Illegible or not commonly intelligible characters;
 - (b) Foreign, obsolete, technical, local or provincial expressions;
 - (c) Abbreviations; or
 - (d) Words used in a peculiar manner.

**CHAPTER 3
RELEVANCY AND ADMISSIBILITY**

Evidence that may be given

14. Evidence may be given in any legal proceeding of every fact in issue (i.e., the points of facts for determination in a case) and of every other fact and circumstance which does the following:
- (a) Proves a fact in issue;
 - (b) Disproves a fact in issue; or
 - (c) Rationally renders the existence of a fact in issue probable or improbable.

Relevant facts

15. Evidence may be given in a legal proceeding of facts that are connected with a fact in issue.
16. A fact though not in issue is relevant, if it forms part of the same transaction as the fact in issue.
17. A fact that is the cause and effect of a fact in issue or a relevant fact is relevant.
18. A fact that is necessary to explain or introduce a fact in issue or a relevant fact is relevant.

Relevancy of the prior judgments and Court orders

19. The existence of any judgment or order from a Court about the same subject matter is a relevant fact, when it:
 - (a) Helps the Court to arrive at a correct conclusion as to a fact in issue or relevant fact; or
 - (b) The existence of the judgment or order is a fact in issue or relevant fact.
20. Any party to a legal proceeding may challenge any judgment or order of a Court which is relevant or which is relied upon by showing that the judgment or order:
 - (a) Was delivered by a Court not competent to deliver it;
 - (b) Was obtained by fraud or collusion; or
 - (c) Is against the laws of the country.
21. Any judgment or order from a Court in the criminal proceeding shall not be relevant in the civil proceeding.

Expert reports

22. An expert report shall be admissible as evidence in a legal proceeding, if the expert, who wrote the report, gives oral evidence in the proceeding.

23. If the expert, who wrote the report does not give oral evidence at the legal proceeding, then that expert's report shall be admissible with leave of Court after the Court examines:
- (a) The content of the report;
 - (b) The reasons why the expert, who wrote the report is not giving oral evidence at the legal proceeding; and
 - (c) Any other circumstances that appear to the Court to be relevant and need to be considered in the interest of justice.

Motive

24. Any fact that establish the requisite intention or motive for any fact in issue or relevant fact are relevant and admissible.

Preparation and Conduct

25. Any fact, which shows preparation or conduct of the defendant for any fact in issue or relevant fact, is relevant and admissible.

Rights and customs

26. Where there is a question as to the existence of any right or custom, the following facts are relevant:
- (a) Any transaction by which the right or custom in question was created, claimed, modified, recognized, asserted or denied or which is inconsistent with its existence;
 - (b) Particular instances in which the right or custom was claimed, recognized, or exercised or in which its exercise was disputed, asserted or departed; or
 - (c) Whether it conflicts with the laws of the country.

Ascertainment of damages

27. In cases in which damages may be awarded, facts tending to determine the amount of damages are relevant.

Alibi

28. The claim that a person at a relevant time was in a different place than that which another person claims is relevant.

Subsequent remedial measures

29. Evidence tendered after an injury or harm occurred that a party took certain actions to prevent the same injury or harm from occurring in the future shall not be admissible to show that the party is liable for the injury or harm originally caused.

Settlement

30. Evidence about failed attempts to resolve a legal proceeding, all non accepted offers of settlement and statements made during negotiations are not admissible in a legal proceeding.

Evidence taken in another legal proceeding

31. The evidence given in one legal proceeding upon the issues raised in that proceeding may be relevant and be taken into consideration in another legal proceeding in which the same issues arise.

Exclusion of relevant evidence

32. Although relevant, evidence may be excluded if:
- (a) Its probative value is substantially outweighed by the danger of unfair prejudice;
 - (b) It could cause undue confusion of the issues;
 - (c) It could mislead the Court;
 - (d) It could cause undue delay or a waste of time; or
 - (e) It is cumulative.
33. No person's identification shall be revealed, if the person is the source of evidence or a witness to the issue and the Court believes that his identification needs to be protected.

CHAPTER 4 PHYSICAL AND DOCUMENTARY EVIDENCE

Physical evidence

34. Where there is physical evidence produced before the Court, other evidence shall not be admitted unless there is substantive and reasonable ground for such physical evidence to be untrue and irrelevant.

Valid written agreement

35. A written agreement shall be valid, if it is:
- (a) Made in the presence of one witness of each party;
 - (b) Signed by all parties or another person duly empowered by a legally binding writing in that behalf; and
 - (c) Legally executed with a legal stamp.

Invalid written agreement

36. A written agreement shall not be valid, if it:
- (a) Has an erased word;
 - (b) Has an alteration which is not counter-signed by the parties executing the agreement;
 - (c) Has a defective seal or signature;
 - (d) Does not have the proper legal stamp;
 - (e) Is entered into while a party was mentally unsound;
 - (f) Is entered into while a party was under duress;
 - (g) Is entered into by a party, who is a child;
 - (h) Is objected to by any party in a Court within 10 days;
 - (i) Is in breach of law;
 - (j) Is executed to conceal an illegal act; or
 - (k) Does not conform to any of the requirements for a valid written agreement as set forth in this Evidence Act.

Revision of a written agreement

37. A revision to a written agreement shall be valid, when it fulfills the requirements for a valid written agreement as set forth in this Evidence Act.
38. If there is more than one written agreement executed between the same parties regarding the same subject matter then the last agreement shall be the valid written agreement.
39. If there is more than one written agreement between the different parties regarding the same subject matter then the prior agreement by date signed by the parties shall be the valid written agreement.

Extrinsic evidence

40. Extrinsic evidence to show the meaning of a document shall not be admitted, except, when a party demonstrates that the language in the document is ambiguous.

Oral evidence as to the contents of a document

41. Oral evidence as to the contents of a document that is or could be produced in Court is not admissible unless and until the party proposing to prove the contents shows that the genuineness of the document is in question and the Court determines that oral evidence about the content of the document is not unduly prejudicial to a party and is in the interest of justice.

Duplicate documents

42. A duplicate document is admissible to the same extent as an original unless:

- (a) A genuine question is raised as to the authenticity of the original; or
- (b) Under the circumstances, it would be unfair and prejudicial to a party to admit the duplicate in lieu of the original.

Electronic documents

43. An electronic document, including an electronic signature, is admissible to the same extent as a non-electronic document unless a genuine question is raised as to the security or integrity of the electronic document system by or in which the electronic document or electronic signature was recorded or stored.

Signatures on official documents

44. No proof shall be required of the handwriting or signature of an official on an official document.

Content of official records

45. The contents of an official record, including data compilations in any form, if otherwise admissible, may be proved by a copy certified as correct.

CHAPTER 5 ORAL EVIDENCE

Non-expert witnesses

46. Oral evidence from non-expert witness shall be based on personal knowledge, if it is:
- (a) A fact which could be seen, it shall be the evidence of the witness, who says he saw it;
 - (b) A fact which could be heard, it shall be the evidence of the witness, who says he heard it;
 - (c) A fact which could be perceived by any sense or in any other manner, it shall be the evidence of the witness, who says he perceived it by that sense or in that manner; or
 - (d) An opinion or the grounds on which that opinion is held, it shall be the evidence of the person, who holds that opinion on those grounds provided that the opinions of experts expressed in any treatise commonly offered for sale, and the grounds on which such opinions are held, may be proved by the production of such treatises, if the author is dead, cannot be found, has become incapable of giving evidence or cannot be called as a witness without an amount of delay or expense that the Court regards as unreasonable.
47. If oral evidence refers to the existence or consideration of a document or physical thing, the Court may, if it thinks fit, require the production of such document or material thing to the Court for inspection by the Court and the parties.

Expert witnesses

48. If scientific, technical or other specialized knowledge will assist the Court to assess the evidence or a fact in issue, a witness, who is qualified as an expert in skill, knowledge, experience, training or education may testify as an expert witness when required by the Court.

Number of witnesses

49. No particular number of witnesses shall be required to give oral evidence in a legal proceeding.

Competency of witnesses

50. All persons shall be deemed competent to give oral evidence in a legal proceeding unless the Court determines that they are unable to understand the questions put to them or give rational answers to questions.
51. If a witness has difficulty communicating by reason of a physical or mental disability, the Court may order that the witness give oral evidence by any mean that enables the evidence to be intelligible.
52. A witness, who is unable to speak, may give evidence in any other intelligible manner, such as by writing or by signs, but such writing shall be written and the signs shall be made in open Court, unless that part of the legal proceeding is held “in camera”. Evidence so given shall be deemed to be oral evidence.

Child witness

53. At every stage in a legal proceeding, a child shall testify only in the presence of the child’s parent or guardian except when:
 - (a) Court is satisfied that the child is intelligent enough to understand and answer the question; and
 - (b) The child’s parent or guardian is unavailable and there exists good cause for their absence.

Drangpon as witness

54. No Drangpon shall testify in relation to any case adjudicated by him.

Accomplice witness

55. The Court may permit any person, who was connected with the crime at issue in the legal proceeding to give oral evidence but that accomplice has the right to refuse to give oral evidence on the grounds that doing so may implicate him in the crime.

Hostile witness

56. If the witness gives testimony that is adverse to the party questioning the witness or acts in a manner that is adverse to that party, then the party may ask the Court’s permission to treat the witness as hostile.

Spouse as witness

57. The husband or wife of any party to the legal proceeding is competent as a witness, except that husband or the wife shall not be required to give evidence about any privileged communications.

Demeanour of a witness

58. When the Court has recorded the evidence of a witness, the Court may also record such remarks about the demeanour of such witness while under examination that the Court may find material.

Refreshing a witness's memory

59. If the memory of a witness is refreshed by a document, then the adverse party may cross-examine the witness upon that document.

Impeachment of a witness

60. A witness shall not be impeached by evidence of bad character except, when the evidence of bad character relates to the person's truthful or untruthful character and such character has been put in issue.

Impeachment of a witness by a prior inconsistent statement

61. Where a party alleges that a witness had made a statement orally, in writing, or recorded on audio tape or video tape that is inconsistent with the witness's present statement, the Court may grant leave to the parties to cross-examine the witness using the prior inconsistent statement.

62. If the witness does not admit that the witness has made the prior inconsistent statement, the cross-examiner is not to adduce evidence of the prior inconsistent statement unless and until the cross-examiner:

- (a) Informs the witness of the circumstances surrounding the making of the prior inconsistent statement to enable the witness to identify or remember the prior inconsistent statement;
- (b) Shows the witness the prior inconsistent statement or plays the recording of the prior inconsistent statement to the witness; and
- (c) Draws the witness's attention to so much of the prior inconsistent statement as is inconsistent with the witness's present statement.

Impeachment of a witness by evidence of conviction of a crime

63. A witness other than the accused shall not be impeached by the evidence of conviction of a crime except when the crime of which the witness was convicted involved dishonesty or fraud.

Admissibility of evidence showing conviction of a defendant

64. Evidence showing that on another occasion the defendant has been convicted of a crime or committed a wrong or other act is not admissible except as relevant to show motive, opportunity, intent or plan in relation to the crime at issue in the legal proceeding.

Evidence of a victim's sexual behaviour in a sexual misconduct

65. In a sexual offence or any criminal or civil case in which sexual misconduct is at issue, evidence of a victim's past sexual behaviour or alleged sexual predisposition is not relevant except:

- (a) If offered to show the victim's consent;
- (b) If offered to show that a person other than the accused was the attacker or aggressor; or
- (c) The victim puts past sexual behaviour or predisposition in issue.

Evidence of habit or routine

66. Evidence of the habit or routine practice of a person or a corporation is relevant to prove that the conduct of that person or corporation on a particular occasion was in conformity with the habit or routine practice.

**CHAPTER 6
QUESTIONING OF WITNESSES**

Role of the Court

67. The Court may question witnesses whether called by itself or by a party.

68. The Court shall exercise reasonable control over the mode and order of questioning of witnesses and presenting evidence so as to:

- (a) Make the questioning and presentation effective for the ascertainment of the truth;
- (b) Avoid needless consumption of time; and
- (c) Protect a witness from harassment or undue embarrassment.

69. The Court on its own or at the request of a party may call witnesses and all parties are entitled to cross-examine such witnesses.

Limitation of cross-examination

70. Cross-examination shall be limited to the subject matter of the direct examination and matters affecting the credibility of the witness. The Court may, in the exercise of discretion permit inquiry into additional matters.

Re-examination

71. The party, who has called a witness may question the witness again on re-examination after the cross-examination but the re-examination shall be limited to matters testified to on cross-examination.

Leading questions

72. Leading questions shall not be permitted on direct examination of a witness except as the Court determines is necessary to develop the witness's testimony or the Court has declared the witness hostile.

73. Leading questions are permitted on cross-examination.

Improper questions

74. The Court may disallow a question put to a witness in direct examination, cross-examination or re-examination and inform the witness that the witness need not answer the question, if the question is:
- (a) Misleading;
 - (b) Repetitive; or
 - (c) Unduly annoying, harassing, intimidating, offensive or oppressive.

Exclusion of witnesses

75. The Court on its own or at the request of a party may order a witness to be excluded from the courtroom except a party witness.

CHAPTER 7 HEARSAY

Hearsay

76. Hearsay is an out of court statement made by a person who is not examined as a witness.

Oral statements that are not hearsay

77. The types of oral statements which are not hearsay, when a prior statement by the witness:

- (a) Who is giving oral evidence and the prior statement is inconsistent with the statement made while giving oral evidence or was made in another legal proceeding or was written down in a document that is available for inspection by the Court and the parties;
- (b) Giving oral evidence is consistent with a statement given by the witness while giving oral evidence and is offered to rebut an expressed or implied charge against the witness of fabrication or improper influence or motive; or
- (c) Giving oral evidence is one of identification of a person made after seeing or perceiving the person.

Written statements that are not hearsay

78. The following types of written statements are not hearsay:

- (a) Records of regularly conducted business activity made at or near the time of that activity by a person with knowledge of that activity and kept in the course of the regularly conducted business;
- (b) Records maintained by the Government that are generally available to the public for inspection or sale;
- (c) Entries in any public or official book, register or record made by a public servant in the regular course of official duties; or
- (d) Published maps, charts, and plans offered for public sale and made under the authority of the Government.

Hearsay exceptions

79. Hearsay evidence is not admissible except with leave of the Court in considering whether:
- (a) It would have been reasonable and practicable for the party by whom the evidence was introduced to have produced the maker of the original statement as a witness;
 - (b) The original statement was made contemporaneously with the occurrence or existence of the matters stated;
 - (c) The statement involves multiple hearsay; and
 - (d) Any person involved in the statement had any motive to conceal or misrepresent the matters involved in the statement.

CHAPTER 8 ADMISSIONS

Admissions

80. An admission is a statement, oral or documentary, made by a party, someone authorized by the party to speak on behalf of the party, an agent of the party or a co-conspirator, which suggests any inference as to any fact in issue or relevant fact.

Proof of admissions

81. Admissions are relevant and may be proved as against the person who makes them or the representative-in-interest, but they cannot be proved by or on behalf of the persons, who makes them or by the representative-in-interest, except in the following cases:
- (a) When the admission is of such a nature that, if the person making the admission is dead, it would be relevant as between third persons;
 - (b) When the admission consists of a statement of the existence of any state of mind or body, relevant or in issue made on or about the time such state of mind or body existed, and is accompanied by conduct rendering its falsehood improbable; or
 - (c) If the admission is relevant otherwise than as an admission.

82. When evidence of an admission is adduced or taken, the Court shall consider that the admission was:
- (a) Actually made;
 - (b) Made voluntarily;
 - (c) Not made in one's own favour or with ulterior motives;
 - (d) True and reliable; or
 - (e) Relevant to the content of the document.

Admission in civil cases, when relevant

83. No admission shall be relevant in civil cases, if it is made either upon an express condition that evidence of it is not to be given or under circumstances from which the Court can infer that the parties agreed together that evidence of which it should not be given.

**CHAPTER 9
CRIMINAL CONFESSIONS**

Criminal confession

84. Any statement, which is made at any time by a person charged with a crime stating or suggesting that the person committed the crime, shall be the confession of the person.

Validity of a confession

85. The Court shall not consider any confession to be valid unless the confession is proven to be:
- (a) Made voluntarily;
 - (b) Given independently; and
 - (c) Made without duress, coercion, undue influence or inducement.
86. If the confession is made to the police officer or any other police official, it shall not be valid unless the confession is proven to be made, after the police officer or the police official had:
- (a) Warned the person that anything he says can be used against him in a legal proceeding;
 - (b) Notified that he has a right to a Jabmi; and
 - (c) Informed that, if he cannot afford a Jabmi, the Government will provide him with a Jabmi.

Proceeding when there is a confession

87. A person, who confesses and a person to whom the confession was made, both shall be present at the legal proceeding in which the confession is at issue.

Confession to a police officer

88. A confession made to a police officer or other police official shall not be admissible without corroborating evidence of the validity of the confession.

89. When a person confesses to a police officer, the police officer must follow the procedure set forth in this Act.

Verification of a confession

90. The Court shall verify a confession in the presence of the person who confessed and the person to whom the confession is made.

Irrelevancy of a confession

91. A confession made by any person is irrelevant and inadmissible in a criminal proceeding, if the making of the confession appears to the Court to have been caused by any:

- (a) Inducement;
- (b) Threat;
- (c) Promise;
- (d) Intoxication; or
- (e) Incompetence or incapability.

Retraction or denial of a confession

92. The Court shall proceed further, if a person:

- (a) Had confessed and then denies the confession; or
- (b) Has made counter-charges.

93. In instances where a confession is retracted or denied, the person shall be:

- (a) Examined in the Court;
- (b) Warned of the consequence of giving false information;
- (c) Called upon to remember whether the person has or has not consciously committed the offence;
- (d) Liable to be charged of perjury; and
- (e) Investigated for the difference between the statement and words given or spoken before and after.

CHAPTER 10 PROOF AND BURDEN OF PROOF

“Proved”, “disproved” and “not proved”

94. Any fact is said to be proved or disproved, when the Court after considering the matters before it:
- (a) Believes that such fact exists or does not exist; or
 - (b) Considers the existence or non-existence so probable that a reasonable person ought, under the circumstances of the particular case, to act upon the supposition that it does or does not exist.
95. A fact is said, “not to be proved” when it is neither proved nor disproved.

Proof of a document

96. A document must be proved by the production of the document itself except, when the original is:
- (a) In the possession of any person out of reach or not subject to the process of the Court;
 - (b) Lost or destroyed; or
 - (c) Not easily movable.
97. When a document cannot be proved as set forth in section 96(a) to (c) of this Act, then oral evidence as to the contents of the document may be given.

Burden of proof

98. A party who substantially asserts the affirmative of the existence of the facts or issues must prove the existence of those facts or issues.
99. When any fact is within the knowledge of the person, the burden of proving that fact falls upon the person.

CHAPTER 11 PRESUMPTIONS

Judicial notice

100. The Court may presume the existence of any fact, which is not subject to reasonable dispute because it is:
- (a) Generally known in the jurisdiction of the Court; or
 - (b) Capable of ratification by a source whose accuracy cannot be disputed.

101. Any party may object and give evidence as to why judicial notice should not be taken about a particular fact.
102. Judicial notice may be taken at anytime during a legal proceeding.

Presumption of authenticity of certain documents

103. A Court may presume the authenticity of the following types of documents:
- (a) A Government Notification;
 - (b) A document issued by the Government;
 - (c) A map or plan made by the Government;
 - (d) A document printed or published under the authority of the government of any country;
 - (e) A law of another country;
 - (f) A report or decision of another country;
 - (g) A power-of-attorney;
 - (h) A certified copy of any judicial record of any country; or
 - (i) A document certified by any representative of the government of another country.

Presumption as to thirty years old documents

104. Where a document is proved to be thirty years old or more, the Court may presume that the signature and every other part of such document, which purports to be in the handwriting of any particular person, is in that person's handwriting and, in the case of a document executed or attested, that it was duly executed and attested by the persons by whom it purports to be executed and attested.

Presumption as to persons, who have not been heard of for nine years or more

105. Where a person was proved to have been not heard of for nine years or more by those, who would naturally have heard, if the person had been alive, the Court may presume that the person is dead.

Adverse presumption, when evidence is not produced

106. The Court may presume that evidence, which could be and is not produced, would, if produced, be unfavourable to the person, who withholds it except that no adverse presumption shall apply to a defendant, who refuses to give oral evidence in a legal proceeding.

CHAPTER 12 PRIVILEGED EVIDENCE

Official records

107. The Head of the Department concerned of the Government may withhold evidence consisting of unpublished and non-public official records relating to affairs of state or communications made to a public officer in official confidence, when public interest would suffer by the disclosure thereof.
108. The Court may in such cases determine whether the claim of privilege is correct by examining such records “in camera” for the limited purpose of deciding whether the evidence should be disclosed or not and if the Court decides that the evidence shall not be disclosed, such evidence shall be regarded as privileged.

Professional legal communications

109. The Court shall not compel any Jabmi without the client’s express consent to disclose:
- (a) Any communication made to the Jabmi by the client in the course and for the purpose of his professional employment as a Jabmi;
 - (b) The contents or condition of any document of which the Jabmi has become acquainted in the course and for the purpose of professional employment; or
 - (c) Any advice given by the Jabmi to the client in the course and for the purpose of professional employment.
110. Nothing in this Act shall protect from disclosure any:
- (a) Communication made by the client to the Jabmi in furtherance of any illegal purpose; or
 - (b) Fact observed by the Jabmi in the course of professional employment that he reasonably believes that the client has committed a crime or fraud.

Communications during marriage

111. No person, who is or has been married shall be compelled to disclose any communication made to the person by the person’s spouse or ex-spouse during his or her marriage.

Communications to a doctor or medical personnel

112. No doctor or medical personnel shall be compelled to disclose any conversation between the doctor or medical personnel and a patient about the patient's physical or mental health.

Information as to commission of offences

113. No Drangpon or Public Officer shall be compelled to disclose the source of information of the commission of offence.

114. No Revenue Officer employed by any branch of public revenue of the Government shall be compelled to say, when the information as to the commission of any offence against the public revenue was obtained.

**CHAPTER 13
AMENDMENT AND AUTHORITATIVE TEXT**

Amendment

115. The addition, variation or repeal of this Act shall be made by the Parliament.

Authoritative text

116. The Dzongkha text shall be the authoritative text, if there exist any difference in meaning between the Dzongkha and the English text.

THE EVIDENCE ACT OF BHUTAN, 2005

Preamble	1
CHAPTER 1	1
PRELIMINARY.....	1
Title, commencement and extent.....	1
Repeal	1
CHAPTER 2	1
GENERAL PROVISIONS.....	1
Evidence	1
Types of evidence	2
Examination of evidence	2
Objections to evidence.....	2
Waiver of objections to evidence	2
Offer of proof.....	3
Limited admissibility of evidence	3
Full understanding of words and documents.....	3
Illegible characters and words	3
CHAPTER 3	3
RELEVANCY AND ADMISSIBILITY	3
Evidence that may be given.....	3
Relevancy of the prior judgments and Court orders	4
Expert reports	4
Motive.....	5
Preparation and Conduct	5
Rights and customs	5

Ascertainment of damages	5
Alibi	5
Subsequent remedial measures	6
Settlement	6
Evidence taken in another legal proceeding	6
Exclusion of relevant evidence	6
CHAPTER 4	6
PHYSICAL AND DOCUMENTARY EVIDENCE	6
Physical evidence	6
Valid written agreement	7
Invalid written agreement	7
Revision of a written agreement	7
Extrinsic evidence	8
Oral evidence as to the contents of a document	8
Duplicate documents	8
Electronic documents	8
Signatures on official documents	8
Content of official records	8
CHAPTER 5	9
ORAL EVIDENCE	9
Non-expert witnesses	9
Expert witnesses	9
Number of witnesses	9
Competency of witnesses	10
Child witness	10
Drangpon as witness	10
Accomplice witness	10
Hostile witness	10
Spouse as witness	11
Demeanour of a witness	11
Refreshing a witness's memory	11
Impeachment of a witness	11
Impeachment of a witness by a prior inconsistent statement	11

Impeachment of a witness by evidence of conviction of a crime	12
Admissibility of evidence showing conviction of a defendant	12
Evidence of a victim’s sexual behaviour in a sexual misconduct	12
Evidence of habit or routine	12
CHAPTER 6	12
QUESTIONING OF WITNESSES	12
Role of the Court	12
Limitation of cross-examination.....	13
Re-examination.....	13
Leading questions	13
Improper questions	13
Exclusion of witnesses	13
CHAPTER 7	14
HEARSAY	14
Hearsay	14
Oral statements that are not hearsay	14
Written statements that are not hearsay.....	14
Hearsay exceptions	15
CHAPTER 8	15
ADMISSIONS	15
Admissions	15
Proof of admissions	15
Admission in civil cases, when relevant	16
CHAPTER 9	16
CRIMINAL CONFESSIONS	16
Criminal confession.....	16
Validity of a confession.....	16
Proceeding when there is a confession.....	17
Confession to a police officer.....	17
Verification of a confession.....	17

Irrelevancy of a confession.....	17
Retraction or denial of a confession	17
CHAPTER 10	18
PROOF AND BURDEN OF PROOF	18
“Proved”, “disproved” and “not proved”	18
Proof of a document	18
Burden of proof	18
CHAPTER 11	18
PRESUMPTIONS	18
Judicial notice	18
Presumption of authenticity of certain documents	19
Presumption as to thirty years old documents.....	19
Presumption as to persons, who have not been heard of for nine years or more.....	19
Adverse presumption, when evidence is not produced	19
CHAPTER 12	20
PRIVILEGED EVIDENCE	20
Official records	20
Professional legal communications	20
Communications during marriage	20
Communications to a doctor or medical personnel	21
Information as to commission of offences	21
CHAPTER 13	21
AMENDMENT AND AUTHORITATIVE TEXT	21
Amendment	21
Authoritative text.....	21