

PRELIMINARY DRAFT

RULE ON GIFTS TO PUBLIC SERVANTS

Public service is public trust. Citizens must have confidence in the integrity of the institutions of the state. Therefore, it is every public servant's sacred duty to commit honest efforts in the performance of his/her duties. S/he has a responsibility to the people to place laws and ethical principles above private gain. S/he should respect and adhere to the ethical standards enshrined in his/her code of conduct.

Applicability

This rule is applicable to employees of all entities using public resources.

Implementation

Heads of entities shall be responsible for effective and indiscriminate enforcement of the rule. Heads of entities shall be responsible to the next hierarchical level.

General

Gifts and other advantages can, or can appear to, affect the impartial performance of a public servant's duties. Acceptance of gifts and all advantages by public servants unless approval for acceptance is expressly given is prohibited. It is a criminal offence for a public servant to solicit or accept an advantage for which s/he has not been given express approval.

Gifts, hospitality and other benefits of reasonable value received from governments or in connection with an official or a public event are permitted, as are gifts, hospitality and other benefits from family members and close personal friends.

A Specific

1. Public servants shall not, directly or indirectly, solicit or accept a gift from a prohibited source or given because of his/her position or coerce the offering of gift or any form of gratification.
2. Public servants shall not accept an invitation or entertainment from members of the public which will place him/her under any real or apparent obligation to them.
3. Public servants shall not accept a gift in return for being influenced in the performance or non-performance of an official act.
4. Public servants shall not solicit hospitality, in terms of provision of food, lodging, lavish or unreasonably generous that might result in embarrassment in performing ones duties or bring the public service into disrepute.
5. Public servants may accept unsolicited gifts not more than Nu.500 per source per occasion but not exceeding Nu. 500 a calendar. This exception shall not apply to gifts of cash or of investment interests such as stock, bonds or certificates of deposits.

6. Public servants may accept awards and honorary degrees, other than cash or investment interest if such gifts are bona fide award given for meritorious public service or achievements provided it is made pursuant to written standards of the organization or it would not question his/her impartiality in any matter affecting the organization.
7. If it is inappropriate to refuse a gift or a present from visiting foreign dignitaries or while visiting foreign countries, public servants may accept and declare it to the head of the entity.
8. Any return gifts or presents required to be given to foreign guests visiting Bhutan will be done with prior approval from the head of the entity.

B Gifts between Employees

Gifts to superiors

1. Public servants shall not coerce the offering of a gift from a subordinate.
2. Public servants shall not solicit contribution from another employee for a gift to their superior.
3. Public servants shall not, directly or indirectly, accept a gift from an employee receiving less pay than himself/herself.
4. Public servants shall not offer gift to superiors at the cost of the government.
5. Notwithstanding the above, public servants may accept:
 - a. Personal hospitality provided at a residence which is of a type and value customarily provided by public servants to personal friends;
 - b. Items given in connection with the receipt of personal hospitality if of a type and value customarily given on such occasions; and
 - c. An appropriate offering to the occasion may be made to an official superior or accepted from a subordinate or other employee receiving less pay in an occasion of personal significance such as illness.

C Discounts or Special Gift Offers by Manufacturers/Retailers

- 1 Entities shall exercise prudence and avoid approaching manufacturers or retailers to give discounts or special gifts to their staff as this can be misconstrued by the public as the Government exerting pressure on retailers to give favorable treatment to public servants.
- 2 Where manufacturers/retailers, of their own accord, offer discounts or special gifts to agencies, for the purchase of their products or services, the head of an entity may approve if s/he decides that this does not undermine the integrity of the entity.

- 3 Public servants are not allowed to accept discounts or special gifts from manufacturers/retailers if these offers are made based on their position as public officers; unless approval has been obtained from the head of entity.

D Gifts Based on a Personal Relationship

- 1 An employee may accept a gift given under circumstances which make it clear that the gift is motivated by a family relationship or personal friendship rather than the position of the employee. Relevant factors in making such a determination include the history of the relationship and whether the family member or friend personally pays for the gift.
- 2 Public servants may accept invitations or entertainment from personal friends.

E Declaration of Gifts, Presents, Benefits or Donations

1. All gifts/presents, favor, hospitality, benefits or donations shall be declared by the receiving servants to the head of entity as per the attached form.
2. Any gifts, present, benefit or donation of value more than Nu.500 received from any source within or outside Bhutan shall be declared to the head of the entity.
3. Gifts, presents, benefits or donations which have value exceeding Nu.500 may be retained by the recipient if he chooses to pay the difference between Nu.500 and the value of the item.
4. Declaration shall be made within 7 days from the date of receipt of gifts, presents, benefits or donations if it is in Bhutan or after arrival in Bhutan if it is outside Bhutan.
5. The head of the entity shall grant the permission to accept the gift provided that the total value gifts received from the same person does not exceed Nu.500 in one calendar year/same year.
6. The money collected from gift items shall be deposited with the government revenue account within 7 days from the receipt of the money.
7. For the purpose of declaration under this regulation, the head of the entity shall assess the value on the basis of the wholesale price in Bhutan irrespective of the origin of the items.
8. Where the head of the entity decides to retain a gift for display or servant use in the entity, the gift need not be valued.
9. The head of the entity shall ensure that proper records of the valuation, handling and disposal of gifts are kept and maintained.
10. The head of the entity shall maintain the records of items received and may either dispose or donate to the national museums, libraries, etc. accordingly.

G Failure to Comply

Where a public servant fails to comply with the rule s/he shall be penalized as per law.

H Definition

“*Gift*” includes any gratification, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. It also includes services as well as gifts of training, transportation, local travel, lodgings and meals, whether provided in kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred. It does not include: modest items of food and refreshments, such as soft drinks, coffee and snacks offered other than as part of a meal; greeting cards

and items with little value, such as plaques, certificates and trophies, which are intended solely for presentation; Loans from banks and other financial institutions on terms generally available to the public.

“Gratification” includes (ref. AC Act 2006):

- (a) money or any gift, loan, fee, reward, commission, valuable security or other property or share in any property, whether movable or immovable;
- (b) any position, duties, employment or contract;
- (c) any part or full payment, release from or discharge of any obligation or other liability;
- (d) any other service, favour or advantage, including:
 - protecting someone from any penalty or disability (whether already incurred or only threatened);
 - Protecting him from disciplinary or penal action (whether started or not); and
 - Promising to exercise or not to exercise any right or servant power or duty; and
- (e) any offer, undertaking or promise of any gratification within the meaning of sub-paragraphs (a) to (d).

“*Prohibited source*” means any person or entity, (a) who/which is seeking official action by the public servant’s entity; (b) does or seeks to do business with the public servant’s entity; (c) conducts activities regulated by the public servant’s entity; (d) has interests that may be substantially affected by performance or non-performance of the public servant’s official duties.

DRAFT Declaration of Official Gift

- 1. Name of Public Servant**

- 2. Designation**

- 3. Description of gift (attach further pages if required)**

- 4. Estimated / actual value of gift**

- 5. Date of receipt / making of gift**

- 6. Identity of donor / recipient of gift**

- 7. Recommendation concerning future use of gift**

- 8. Signature of Public Servant**

- 9. Date of declaration**

- 10. Date receipt**

- 11. Signature of Head of Entity/Concerned Officer**