

**LEGISLATIVE IMPACT ASSESSMENT REPORT FOR THE WATER ACT OF BHUTAN,
2011**

**Ministry of Energy and Natural Resources
Royal Government of Bhutan**

LEGISLATIVE IMPACT ASSESSMENT REPORT FOR THE WATER ACT OF BHUTAN, 2011

1. TITLE OF THE PROPOSAL

- 1) Type of Legal Measure: Amendment of the Water Act of Bhutan, 2011.
- 2) Lead Ministry/Commission/Agency: Department of Water, Ministry of Energy and Natural Resources.
- 3) Date of approval of the Legislative Proposal: July-August, 2024
- 4) Expected Date of Adoption Day/Month/Year: 2026

2. THE BACKGROUND OF THE PROPOSAL

(1) Details of how and why the proposed legislative change has arisen

During the civil service reform process, the Office of the Attorney General (OAG) was tasked with reviewing the laws that would be impacted by the national transformation. Therefore, a team was formed by the OAG with relevant lawyers from Ministries and Agencies to review the laws. The main objective of this review was mainly to align the existing laws of the country with the new structure of the civil service reform; and to consolidate laws with similar objectives for more efficient and effective service delivery through the laws.

A total of 46 Acts were reviewed by the team, which were expected to be impacted by the reform and restructuring of civil service. Out of which, 13 Acts were to undergo major changes, 4 under medium changes, and 29 to undergo minor changes. Thereafter, the decision to have a reform Act for restructuring was made, following which the amendments of the laws by the relevant sectors could be carried out. On October 22, 2022, the Civil Service Reform Act of Bhutan 2022 was passed by the 8th Session of the Third Parliament and came into force on December 15, 2022.

Section 18 of the Civil Service Reform Act of Bhutan 2022 (Reform Act) authorizes the Department of Water (DoW) of the Ministry of Energy and Natural Resources (MoENR) to be the implementing agency for all water mandates specified in the Water Act and other laws from January 1, 2023. Furthermore, the Cabinet has directed the Ministry of Energy and Natural Resources (Ministry) to carry out a Legislative Impact Assessment (LIA) for the Water Act 2011 vide letter number: C-3/144/2023/1662 dated June 5, 2023. Thus, a review of the existing Water Act of Bhutan, 2011 has become necessary to ensure that the legal framework aligns with the updated organizational structure and other requirements.



(2) Detailed background information that provides a context for the objective of the proposal and the policy that is to be implemented

The Water Act of Bhutan, 2011 was enacted during the 7th Session of the First Parliament in May 2011, providing the legal basis for the Bhutan Water Vision and Bhutan Water Policy 2009. The Water Act, in line with the Bhutan Water Vision and Policy, broadly provides two main purposes, namely (1) to ensure the water resources are conserved, protected, and managed in an economically efficient, socially equitable, and environmentally sustainable manner for present and future generations; and (2) to establish a suitable institution and institutional arrangements for managing Bhutan's water resources.

The Act designated the National Environment Commission (NEC), supported by the National Environment Commission Secretariat (NECS), as the independent authority to exercise the overall mandates of the Water Act. In parallel, seven other competent authorities have been identified to liaise with the NEC through NECS for effective implementation of the Act and to foster institutional linkages for better coordination and cooperation.

While the Water Act and its Regulation (2014) set out the institutional arrangements, incorporating a decentralized approach to managing Bhutan's water resources, the implementation of the water legislation in practice remains a sector-based, silo approach, piecemeal implementation, and lacking coordination among different water agencies. This raises questions of accountability and sustainability of the water services both from the source and supply end. The same concern regarding weak institutional coordination among the water agencies was also echoed in the draft Water Roadmap in 2022 and during the country's first National Water Symposium held in 2017.

Recognizing the above issue, the Reform Act, established the Department of Water (DoW) with effect from January 1, 2023, to consolidate all the water mandates. The DoW shall serve as the primary agency for the implementation and coordination of all the water mandates enshrined in the Water Act and other water-related legislation. However, there is still confusion in understanding the mandates and implementing the Water Act among the multiple water agencies (competent authorities) identified in the current Water Act. Therefore, considering the Civil Service Reform Act 2022 and the current challenges in water resource management, it is imperative that the Bhutan Water Act, 2011 be reviewed to ensure the right governance structure towards the application of the Integrated Water Resources Management principle. This will assist in moving towards holistic management of water resources both from the source and the supply end, and making it climate resilient to conserve and sustain the water resources for present and future generations.

(3) The detailed description of the issue that the proposal is expected to address.

Until the commencement of the Reform Act in the face of the national transformation, the NEC was the sole authority to exercise the powers and functions under the Water Act of Bhutan 2011 and to carry out its implementation. However, following the reform, the Reform Act recognizes the DoW of MoENR as the implementing agency responsible for carrying out all mandates of the NECS about the Water Act and any other functions related to water resources specified in other laws. Therefore, it has become important to make the necessary amendments regarding the implementing agency and to provide better clarity in the powers and functions of DoW in line with its Vision, Mission, and Purpose. Furthermore, as a result of the reform, several agencies were either dissolved, merged, or created, so the subsequent changes related to them are also required to be reviewed and updated accordingly.

The roles and mandates of the competent authorities need to be reviewed in line with the new mandate of the DoW after reform. According to the existing Act, multiple competent authorities are responsible for different aspects of water quality, safety, accessibility, and adequacy and some overlapping mandates. This has led to implementation issues, such as the Ministry of Health being responsible for the quality assurance of drinking water, even though its primary mandate is to provide medical services, not to monitor the safety and quality of water. Likewise, with other Ministries, Agencies, and Local Governments, there has to be segregation of roles in policy, planning, implementation, and regulation.

Furthermore, following the creation of the DoW under the new Ministry, it is essential to clarify the roles of the NEC and the Ministry. A clear delineation is needed to specify which matters will be submitted and decided by the Ministry and the NEC.

To improve water resource management and public service delivery, the scope of the Water Act needs to be broadened in terms of policy planning and management to include areas of water storage, glaciers and ice, and transboundary rivers. Furthermore, more clarity is also required on how water resource planning and management at the local government level could be implemented while exploring rooms for collaboration for the effective and efficient implementation of the water mandates by the DoW. In addition, the existing Water Act does not sufficiently cover biotic components relating to aquatic biodiversity, foreign direct investments in water abstraction and use, private sector involvement, Public-Private Partnership mechanisms, and community participation. In the era of climate change and its adaptability to climate change adaptation programs and resilient aspects need to be considered. The provisions of the existing Water Act could also be enhanced for the promotion of education, research, and studies, and adoption of water-friendly and efficient innovative technologies for sustainable water use and management in the context of climate change, and the establishment of a water-knowledge hub.

The revision of the Water Act will also look into the fines and penalties related to effluent discharge in conjunction with the National Environment Protection Act and other relevant laws and also include provisions on consumer rights. The revised act will also cover the

management of wastewater and stormwater, specifying clear institutes and their responsibilities. With the introduction of the water curriculum at the tertiary institutes, partnerships and collaborative mechanisms with the institutes require provisioning.

There is a need for a clear procedure for the issuance of permits and environmental clearances for the abstraction and use of water. The existing Water Act vests upon Commission and/or Competent Authorities for the issuance of the clearances, which has to be done in consonance with the Environmental Assessment Act. However, following the Reform Act, there has been confusion on the issuance of the permit and the clearance since all water mandates though given to the DoW, the aspects of environmental clearance for water abstraction and use are still under the purview of the Department of Environment and Climate Change.

There is a need for clarity and uniformity in designing the inclusion fees and tariff, and governance mechanism and its implementation in the new Act to ensure that water is being used judiciously, payment is commensurate with the services, and uniformity in the approaches for the imposition of water tariffs. The lengthy dispute settlement mechanism needs to be reviewed to avoid prolonged and delayed justice for the aggrieved. The clarity in the focal for international conventions and treaties for water-related and for water resource mapping and inventory, the coordination and collaboration roles of each sector need to be inserted.

(4) The economic, social, and environmental effects including unsustainable trends of the issue

Social Impacts:

- 1) Enhance transparency and credibility in the water sector through clear delegation of roles and responsibilities in terms of water governance and service delivery through inclusivity;
- 2) Ensure an equitable, affordable, quality, reliable, and sustainable supply of water for the safety and economic benefits of consumers;
- 3) Promote public-private partnerships through enhanced innovation, efficiency, and investment in the water sector to improve water service delivery; and
- 4) Improve local/rural livelihoods through the provision of adequate and reliable water supply.

Economic Impacts:

- 1) Enhance the sustainability of water resources in terms of quality and quantity;
- 2) Ensure judicious use of water resources through the imposition of fees and tariffs;
- 3) Enhance food security/production through improved water service delivery in the agriculture, industries, hydropower, and livestock sectors; and

- 4) Attract financial support/investments from donor agencies to promote water resource development.

Environmental Impacts:

- 1) Conservation of aquatic ecosystems, forests, and watershed areas;
- 2) Creates provision to address the problem of water shortage by using alternate management strategies, such as groundwater abstraction, in addition to surface water abstraction;
- 3) Minimize negative impacts on the environment while harnessing water resources; and
- 4) Water quality improvement in rivers, lakes, springs, and groundwater reservoirs through law enforcement to mitigate pollution sources entering water bodies.

(5) The risks inherent in the initial situation

The inherent risk in the initial situation of the new proposal will be:

- 1) Acceptability and resistance amongst various stakeholders and competent authorities on the newly defined roles and responsibilities;
- 2) Risk of longer Turn Around Time due to reach of the Department; and
- 3) Requirement of additional manpower and field offices.

(6) The underlying motive forces

a) What would happen under a "non-action" scenario?

- 1) Not amending the Act would lead to unclear mandates after the Civil Service Reform Act between the Department of Water and other sectors involved in water-related activities;
- 2) Multiple competent authorities without alignment with the main mandates of the Department of Water would confuse implementation;
- 3) There are many management committees formed for the management of water in the local government, leading to bureaucratic layers;
- 4) Rising conflicts on customary rights and equity and equality principles are violated considering that customary rights are mostly exercised by few households;
- 5) The ineffective and lengthy process of dispute settlement mechanisms established under the existing act leads to prolonged decisions and delayed justice;
- 6) Inconvenience in implementing the water-related activities for the Department of Water;
- 7) Ongoing and perennial issues with lack of accountability;
- 8) The principle behind Integrated Water Resources Management could be undermined; and

- 9) Lack of clarity in carrying out international coordination and agreements related to water.

b) Affected stakeholders

- 1) Department of Infrastructure Development and Department of Human Settlement: There will be clear roles and responsibilities between the DoW and the Departments under the Ministry of Infrastructure and Transport;
- 2) Local Government: With the revision of the Act, there will be clear powers and functions of the local government;
- 3) Competent Authorities: There will be the removal of roles from most of the competent authorities and alignment with the mandates of the DoW;
- 4) Water Service Provider (Thromdes and Dzongkhags): Bring clear roles and responsibilities in providing water services, as well as accountability for poor services; and
- 5) Water Users/Water User Associations: Clarity in availing water-related services (water abstraction permits, dispute resolution, etc.)

c) Previous initiatives and existing Legal Measures that are deployed to solve the issue/problem

- 1) The Cabinet Secretariat issued an order vide letter no: S-08/C4CS/32/2023/591 dated 19th January 2024 directing the MoENR and Ministry of Infrastructure and Transport on implementation of water mandate before the amendment of the Water Act is proposed to the government;
- 2) Coordination meetings between the agencies and Departments;
- 3) Discussion at the C4CS;
- 4) Rural Water Supply Scheme mandates transferred to the erstwhile Ministry of Works and Human Settlement from the Ministry of Health (MoH) in 2018 through MoU;
- 5) Interim Secretariat to Wangchhu Basin Committee for River Management to ensure water security through index development; and
- 6) Establishment of the Water Resource Technical Advisory Committee to facilitate a coordinated approach towards sustainable development and management of water resources in the country.

3. MAIN OBJECTIVE OF THE PROPOSAL

(1) The comprehensive objective intended to be achieved and the expected impacts, outputs, and outcomes

- 1) Provide the legal framework for the newly established DoW to function as a lead agency on overall water-related mandates;
- 2) Clarity in the roles of the NEC and the Ministry on matters will be decided by the Ministry and which need to be submitted to the NEC;
- 3) Establish strong institutional coordination and linkages in water resources management by recognizing the DoW as an overall policy-making, regulatory, and coordinating agency;
- 4) Bring clarity in institutional arrangements, mandates, powers and functions, roles and responsibilities of policymakers, regulators, service providers, consumers, and others;
- 5) Ensure water security and development of security indexes for planning and informed decision-making;
- 6) Integrated and holistic approach for sustainable utilization and management of water resources;
- 7) Create an enabling environment for the engagement of the private sector in water-resource development, water-based industry, and others.
- 8) Promote and explore artificial intelligence and state of art technologies in water management;
- 9) Recognize water as central to all social and economic development;
- 10) Enhance service delivery;
- 11) Valuing water as a finite and non-sustainable resource;
- 12) Ensure safe, adequate, and affordable water;
- 13) Research and development and instituting a data repository system;
- 14) Enhance climate-resilient infrastructures, nature-based solutions, Gender Equality, Disability and Social Inclusion (GEDSI) inclusiveness, and innovative financing mechanisms in the water sector.

(2) Account of any previously established objectives

The water being cross-sectoral and multi-facet felt the need to have a neutral overall coordinating agency who would look into the interest of the respective sectors. There was a need to clearly define prioritization of the water uses and provide legislative support to the implementation of the Bhutan Water Vision and Bhutan Water Policy 2009. With this "The Water Act of Bhutan, 2011" was adopted to protect, conserve and manage the water resources.

(3) The rationale for the objective

The main rationale for the revision of the Act is to update the mandates of the DoW and relevant Agencies and Ministries after the organizational change post-civil service reform. The revision is also intended to bring clarity to the roles of the competent authority in conjunction with the mandates of the DoW. It also provides an opportunity for the Department to include emerging issues and opportunities such as climate change, Nature based

Solutions, GEDSI, partnership and collaboration with institutes after the introduction of the water curriculum, establishing knowledge centers, and others, that are not included in the existing Act.

The new law will strengthen the sectoral roles as well as enforcement powers of the relevant sectors in enforcing the Act. It will enhance the integrated approach and holistic management and draw clearer accountability. The revised Act will have a clear provision on the imposition of fees and water tariffs, shorter dispute settlement procedures for effective remedy, engagement of relevant sectors in water resource mapping and inventory, resolving the coordination issues, ensuring safe, sustainable, adequate, and affordable water in the country, engagement of private sector in water resource development and management and water-based industries.

4. POLICY RATIONALE FOR THE PROPOSAL

(1) Clear statement of the issues or problems the proposal is intended to address

- 1) Align with the mandate of the new DoW after the Reform Act;
- 2) Bring clarity in the roles of the Department and other related and relevant agencies in policy, planning, and implementation;
- 3) Assignment of focal for International Conventions and Treaties related to water;
- 4) Review and redefine the roles of competent authority after the reform;
- 5) Harmonize the interface between the Department of Environment and Climate Change for water-related permit and approval processes under the Environmental Assessment Act 2000;
- 6) Harmonize with the National Environment Protection Act 2007, and Waste Prevention and Management Act 2009;
- 7) Review the dispute settlement procedures;
- 8) Uniformity on the introduction and application of water tariff and other fees;
- 9) Enhance service delivery;
- 10) Ensure safe, adequate, and affordable water; and
- 11) Engagement of relevant sectors in water resource mapping and inventory depending on the site.

(2) Why legislation rather than an administrative arrangement, is required

The current act has a multi-administration system (as competent authorities) to manage water resources at various governance/agency levels. With this system, there was a duplication of roles and responsibilities for the implementation of the Water Act and corresponding water-related activities. For example, the Dzongkhag, Gewog, MoIT, and MoH

have a similar role, which is to ensure safe, adequate, and potable water supply in the communities and Throms (sections 15 a and b).

It is also unclear whether the mandates provided by the Water Act and Regulation for Thromde Administration (4 Thromdes) cover the Dzongkhag Municipality. There is no specific provision/ section for the Dzongkhag municipality's role in the administration and operation of its water supply system.

The existing Water Act makes more or less reference to groundwater governance and management in general. Therefore, the revision of the act provides scope for the inclusion of groundwater management and the identification of relevant administration/institutional arrangements for its management.

The DoW currently lacks a representative or focal point at the local level (Dzongkhag). Without a representative in the local government, future water-related service deliveries may be hampered, especially if the department needs to grant water-abstraction clearances and permits and manage water at the local level.

(3) A clear explanation of the policy to be implemented - what has to be done and why?

The new proposal intends to revise the Water Act in its entirety and propose a Water Bill by considering and addressing the challenges and concerns as above-mentioned.

5. OPTIONS AVAILABLE TO ACHIEVE THE OBJECTIVES

(1) The basic approach to reach the objective

The basic approach to reach the main objective is to revise the existing act and incorporate all the issues that are highlighted in the above points to make a comprehensive act to make it relevant to the changing scenario.

(2) Policy instruments that have been considered earlier and the reason for its failure

The legal framework and mandates specified in the Water Act, which includes the roles of the NEC, NECS, and other competent authorities, were established before civil service reform. Consequently, there is a need to amend the Act to align with the current structure and roles of competent authorities and also include the areas that are not covered by the existing Act.

(3) The options available and rationale for all options

The options available are the cabinet order issued to provide clarity between the Department of Water, MoENR, and the Department of Human Settlement, MoIT.

(4) Design and stringency levels that have been considered

The whole approach to the governance of water and its resources starting from institutional arrangement has to be assessed to promote an integrated approach rather than the quick fixed solution. The proposed revision will look at the penalty sections and assess whether there is a need for stringent penalties for certain violations and where there is no requirement, the penalty can be reduced. Overall, the rigid provisions hampering water resource management and use will be reviewed.

(5) The options that have been discarded

Considering the issues highlighted in the above paras, the preferred option is to revise the existing Act in its entirety and partial amendment has been discarded.

6. IMPACTS EXPECTED FROM THE DIFFERENT OPTIONS IDENTIFIED

(1) The expected positive and negative impacts of the options selected, particularly in terms of economic, social, and environmental consequences, including impacts on the management of risks, in particular:

a. The administrative compliance cost;

With the revision of the Water Act, there will be administrative costs in strengthening the department with an increase in human resources.

b. The impact on the budget; and

Some budgetary support will be required to revise the Water Act, undertake stakeholder consultations, formulate and update water regulations, guidelines, standards, awareness and sensitization programs, etc.

c. Creation of new institutions.

There will be no new institutions created with the revision of the Act as the DoW has been already created. However, to reduce the TAT for public service delivery through increased reach, field offices will be required.

(2) Potential conflicts and inconsistencies between the economic, social, and environmental impacts that may lead to trade-offs and related policy decision

The revision of the Water Act of Bhutan 2011 does not envision any potential conflicts and inconsistencies between the economic, social, and environmental impacts that may lead to major trade-offs and related policy decisions. The Act shall instead contribute towards harmonizing and maximizing the socio-economic and environmental impacts to ensure effective water resource management holistically.

(3) Impacts of the particular social group, economic sector, or region

The formulation of the Water Act is expected to positively impact society by ensuring adequate, equitable, affordable, quality, sustainable, and reliable water supply. However, it may also impose restrictions on traditional water use practices (e.g., customary practices, irrigation, etc.), potentially affecting local communities. Additionally, the imposition of fees and tariffs for water services could limit household water usage and impact low-income households.

7. JUSTIFICATION OF THE PREFERRED OPTION

(1) The recommended option, and rationale and reasons

The revision of the existing Act entirely and a new act based on the issues and rationales described in the questions above.

(2) Have any accompanying measures to maximize positive impacts and minimize negative impacts been taken

The Water Act revision will have no negative impact and there are more positive impacts that provide rationale for amendment of the act.

8. POWERS AND FUNCTIONS, DECISION-MAKERS, DELEGATES AND REVIEW OF DECISIONS

(1) Clarity of power and function

The new law will have clear powers and functions of the new Department and the Ministry in the implementation of the Act in alignment with the mandates provided by the transformation. The functions and powers of the competent authority and the dispute settlement committee for water will be reviewed in line with the mandates of the Department.

(2) Decision-maker and delegates



The decision-making for the implementation of the Water Act will be divided into various layers where the policy decision will be made by the Ministry upon technical recommendation of the Department and the responsibility for the implementation of the act and the rules will be provided to the Department as a lead agency. However, the Dzongkhags and Thromdes will be provided with powers to implement the act at the local level.

(3) Decision criteria

The decisions rendered by the Ministry, Department, and the relevant local authorities will be based on the powers provided by the law.

(4) Review of decisions

The existing Act establishes dispute settlement mechanisms at both local and central levels, with the option to appeal to the Royal Court of Justice after fulfilling all required procedures. However, there is a need to review this process to determine if the appeal process can be shortened by directly referring disputes to the Court, given that the committee's decisions are not binding. While there are advantages to having alternative dispute resolution mechanisms, such as negotiations and administrative procedures, it is necessary to assess the effectiveness and duration of these processes in settling disputes.

9. STAKEHOLDER CONSULTATION

(1) Which interested parties were consulted, when in the process, and for what purpose?

Various stakeholders were consulted during the process of conducting the LIA for the existing Water Act of Bhutan 2011 by framing and circulating survey questionnaires. The survey questionnaires were aimed to determine the implementation gaps, and any emerging issues and to determine the impact of the transformative initiatives in the Civil Service. The survey questionnaire was distributed to relevant stakeholders such as the Ministry of Agriculture and Livestock (Department of Agriculture and Department of Livestock); Ministry of Infrastructure and Transport (Department of Infrastructure Development, Department of Human Settlement); Ministry of Industry, Commerce and Employment (Department of Industry); Ministry of Home Affairs (Department of Local Governance and Disaster Management); Ministry of Health (Department of Public Health); National Land Commission Secretariat (Department of Survey and Mapping); Thromde Administration (Thimphu, Phuentsholing, Gelephu and Samdrup Jongkhar); Dzongkhag Administration (Paro, Punakha, Tsirang, Trashigang, Pema Gatshel, Chukha and Samtse); Department of Environment and Climate Change; Department of Forest and Park Services; Department of Energy; National Centre of Hydrology and Meteorology.

(2) What are the results of the consultations?

The responses to the survey questionnaire were received from agencies and organizations which include: National Research and Development Centre for Riverine and Lake Fisheries; Irrigation Division, Department of Infrastructure Development, Department of Livestock; Samdrup Jongkhar Thromde; National Center for Hydrology and Meteorology; NDDC, Department of Livestock; Department of Agriculture; Trashigang Dzongkhag Administration; Department of Energy; Regional Poultry Breeding Centre; Gelephu Thromde; Thimphu Thromde; Ministry of Health; Samtse Dzongkhag Engineering Sector; Department of Media, Creative Industry and Intellectual Property, MoICE; Tendruk Gewog Administration; Phuentsholing Thromde; Ministry of Home Affairs and National Land Commission.

The responses received from the stakeholders were thoroughly reviewed and critically analyzed to understand the strengths, shortcomings, issues, and opportunities regarding the existing Water Act. These analyses also served as a basis for drawing conclusions that underpin the compilation of the LIA report and this proposal. The consolidated responses and feedback from the stakeholders for each question from the survey are as follows:

- 1) The 79.2 % agreed that the existing Water Act of Bhutan 2011 has to undergo amendment.
- 2) As per the survey, 79.2% agreed that the access, management of water, and service delivery will be improved through amendment of the Water Act because it will bring clarity on roles, responsibilities, and accountabilities as the amendment could also address the impacts of the transformative initiatives and existing gaps of the Water Act.
- 3) The majority of respondents, i.e. 91.7% disagreed with the presence of conflicting sections in the Water Act to other existing Acts.
- 4) Among the respondents, 95.8% agreed that the private sector should be involved in water service activities due to the reach of the private sector and their involvement in business activities. With their involvement, there will be shared responsibility in water resource management and bringing in innovation and efficiency in services.
- 5) 45.8 % of respondents agreed that there should be one agency responsible for water governance from source to end user. On the other hand, 33.3% of survey respondents agreed that there should be one agency responsible for providing water services (source till end-user) and one agency to regulate. However, 16.7% agreed that there should be multiple agencies responsible for water governance from source to end-users.
- 6) A total of 75% of the respondents disagreed with the need for a separate groundwater management act based on the reasoning that it can be integrated into the Water Act to avoid the proliferation of laws.

- 7) The respondents pointed out that the provisions of the Water Act have been impacted by the national transformative initiatives, primarily because the water mandates have been transferred from the NEC to the DoW. Additionally, the respondents suggested making corresponding changes to the names of the agencies and organizations, given the numerous institutional changes that have occurred during the civil service reform.
- 8) The scope of the Water Act needs to be broadened to include areas of groundwater, glaciers and ice, and transboundary rivers. Some respondents even felt that the scope of the Water Act should also be expanded beyond water bodies and include riparian buffer zones.
- 9) The respondents have identified that the existing Water Act does sufficiently cover biotic components relating to aquatic biodiversity, foreign direct investments in water abstraction and use, private sector involvement, Public-Private Partnership mechanisms, and community participation. Furthermore, the Water Users Association (WUA) component was found to be weak because there is neither recognition of the WUAs formed nor any vertical growth that is occurring.
- 10) Some of the respondents also pointed out the need for the revision or addition to the list of Competent Authorities of the Water Act and their powers and functions. For instance, there is a need for the inclusion of the Chiwog Tshogpas under the Competent Authority, and the need for Competent authority for certain areas such as that of biotic components (for example: fish) and the safety of water infrastructures including dams was also suggested.
- 11) The need for revision of fines and penalties as a priority to address the growing urban settlement and pollution.
- 12) Few respondents expressed concerns through their responses on the lack of awareness, outreach programs, or research conducted on sustainable use of water resources.
- 13) Respondents also pointed out that the DoW should be the enforcement agency while the implementing responsibilities be given to the Dzongkhags. Further, some respondents pointed out issues of implementation of the Water Act in the Dzongkhag and Gewog Levels and how Dzongkhags Environment Officers can be involved with DoW's function. While few respondents suggested the establishment of separate water committees (or special committees) in all Dzongkhags and Thromdes.
- 14) A respondent also suggested the institution of an online feedback system on access and management of water.
- 15) Some respondents pointed out that water quality and monitoring aspects are poor, therefore, suggestions such as forming a separate committee or team for monitoring; mandatory quality monitoring in both rural and urban areas; and using biomonitoring as the basis for monitoring the water quality were made through their responses.

- 16) The requirement of a focal officer of DoW at every Dzongkhag has been highlighted in the survey response.
- 17) The majority of the respondents shared the view that a water tariff for domestic drinking water can be imposed even beyond Thromde Areas because it could benefit in meeting the operation and maintenance cost; however, the water and service quality shall be assessed properly. Since the cost of operation and maintenance could be lower in the areas beyond Thromde, most respondents suggest the imposition of a minimal tariff on an annual basis to ensure that there is proper management of water resources.
- 18) The majority of the respondents are against the view that a water tariff for irrigation water should be imposed as it might have a direct impact on agriculture production as the majority of the farmers are dependent on subsistence farming in Bhutan. However, some of the respondents were of the view that there could be minimal tariffs on the irrigation water considering that the infrastructure developments are carried out by the government and there is no investment from the farming communities. Further, some of the respondents are of the view that there should be a certain capping on tariff-free irrigation water quantity and once the limit for the capping quantity is exceeded, the tariff should be imposed.



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ROYAL GOVERNMENT OF BHUTAN

Cabinet Secretariat

Tashichho Dzong

Cabinet Secretary

C-3/144/2023/1662

5 June, 2023

Secretary/Acting Secretary/Heads of Constitutional Offices

All Ministries/Constitutional/Autonomous Agencies

Thimphu

Subject: Legislative Impact Assessment and Implementation of Civil Service Reform Act.

Dear Dasho(s),

As you are aware, pursuant to the Civil Service undergoing the transformation process, the Royal Civil Service Commission and the Office of Attorney General began to review legislations which had been impacted by the reform process. Forty-six existing legislations had been identified, impacted and required amendment.

As the Principal Act "The Civil Service Reform Act 2022", legitimizing the reform process has been passed as an Urgent Bill during the 8th Session of the Third Parliament, the Lhengye Zhungtshog directs every Ministry/Agencies to review the legislations impacted by the Civil Service Reform and readjust accordingly. The LZ also directs the Ministries and concerned agencies to initiate policy reviews, formulations surrounding amendment of impacted legislations and prepare in that line to undertake the LIA processes.

The list of 46 existing legislations identified as impacted by the reform process are attached herewith.

This has reference to the 144th Session of the Third Lhengye Zhungtshog held on May 23, 2023.

With warm regards,

Kayde
(Keshong Deki)

Offg. CLO, Legal Section

for n.a.

hucayue

5/5/23

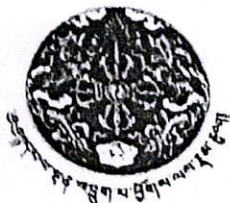
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1. PS to Hon'ble Prime Minister, Gyalyong Tshokhang, Thimphu.
2. Hon'ble Minister, Ministry of Foreign Affairs and External Trade, Thimphu.

Thimphu, BHUTAN. P.O Box No. 1011

Tel. +975-2-336842 (Secretary), 321437 (PABX Tashichhodzong), 336667, 336065 (PABX Gyalyongkhang)

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ROYAL GOVERNMENT OF BHUTAN

Cabinet Secretariat

Tashichho Dzong

Cabinet Secretary

List of existing Legislations Impacted by the Civil Service Reform requiring amendment.

	Agency	List of Acts
1	MINISTRY OF ENERGY AND NATURAL RESOURCES	1. Forests and Nature Conservation Act. 2. Environmental Assessment Act 2000 3. National Environment Protection Act of Bhutan 2007 4. Waste Prevention and Management Act of Bhutan 2009 5. Water Act of Bhutan 2011 6. Electricity Act 2001
2	MINISTRY OF INDUSTRY COMMERCE AND EMPLOYMENT	7. Information Communication and Media Act 2018 8. Industrial Property Act of Bhutan 1995 9. Copyright Act of Kingdom of Bhutan 2001 10. Consumer Protection Act 2012 11. Bhutan Standards Act 2010 12. Bhutan Postal Corporation Act 1999
3	MINISTRY OF AGRICULTURE AND LIVESTOCK	13. Seed Act 2000 14. Pesticides Act 2000 15. Biodiversity Act 2022 16. Livestock Act 2001 17. Cooperative (Amendment) Act, 2009
4	MINISTRY OF INFRASTRUCTURE AND TRANSPORT	18. Road Safety and Transport Act 1999 19. Road Act 2013 20. Bhutan Civil Aviation Act 2013 21. Tenancy Act 2015
5	MINISTRY OF HEALTH <i>Kayde</i>	22. Food Act 2005 23. Biosafety Act 24. Plant Quarantine Act 1993 25. Medicine Act 2003 26. Narcotics and Psychotropic substance and Substance Abuse Act 2015 27. Tobacco Control Act 2010

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