

Legislative Proposal Construction Bill

1. Title of the proposal: Construction Act of Bhutan

Lead Ministry: Ministry of Works and Human Settlement

Date of approval of Legislative proposal: 33rd Lhengye Zhungtshog held on 13th August 2019

Expected date of adoption: July 2022

2. Problem identification

The construction sector is a fundamental economic sector which permeates most of the other sectors as it transforms various resources into constructed physical, economic and social infrastructure necessary for socio-economic development. It embraces the process by which the physical infrastructure is planned, designed, procured, constructed or produced, altered, repaired, maintained, and demolished. Thus, the socio-economic development depends on the existence of a reliable and competitive construction industry that is capable of delivering quality services and value for money in the development and maintenance of the physical infrastructure.

Recognizing the importance, the government has allocated significant outlays in the past Five-Year Plans for infrastructure development. The government appropriations reveal that 60 percent of the total 11 FYP outlay was allocated for procurement, out of which 80 percent accounts for procurement of works. The construction sector employs more than 2700 contractors, more than 67 consultants, contributes about 16 percent of GDP and employs 2.56 percent of the Bhutanese workforce.

However, the construction industry in Bhutan is confronted with challenges such as lack of professionalism and technical capacity, lack of research and development, low mechanization, poor quality construction, poor motivation amongst construction professionals, poor construction safety practices, lack of social responsibility, lack of proper procedure for design and implementation, cost and time overrun, lack of legal and regulatory framework, amongst others.

Further, construction is the largest sector importing 85 percent (68,279 on an average) of the total foreign workers annually. However, studies show that there were no transfer of skills and knowledge to our local workers.

Recognizing the issues, the government approved the National Construction Industry Policy in February 2020 to give clear direction to the construction sector. Furthermore, to regulate, revitalize and bring about fundamental changes in the construction industry, it was found imperative to have an appropriate legislation. Hence the government approved drafting of the Construction Bill during the 33rd Lhengye Zhungtshog.

3. Objective of the proposal

The main objectives of the proposed Act, amongst others are as follows:

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- i. to professionalize the construction sector and to ensure resilience, quality and safety of infrastructure in the country;
- ii. to provide for the development of the construction sector and to regulate contractors, engineering professionals, construction personnel, including *zohs*, consultant firms and such other persons;
- iii. to formalize and standardize the activities of the construction sector and to provide for the settlement of disputes;
- iv. to provide legal status to agencies like the Construction Authority (Construction Development Board) to carry out their regulation mandates effectively and the Engineering Council for regulation and professional development of the construction professionals.

4. Policy options

Since the implementation of the 1st FYP in the 1960s, the construction industry of Bhutan has been contributing significantly to the economic growth of the nation, apart from being an important contributor in the employment generation. Recognizing the importance of the construction industry, the government has made attempts to streamline the processes and systems to enhance efficiency in delivery of services. Some notable efforts of the government to bring about changes are:

- Establishment of the Construction Development Boards in 1987
- Establishment of Construction Association of Bhutan in January 2000
- Development of Construction Manual in 2007

Despite the efforts of the government to enhance the construction industry, the construction industry has not been able to reach an optimum level of performance in the absence of a specific Construction Act. Therefore, the National Construction Industry Policy 2020 recommends for a Construction Act to support the efforts of the government to achieve its objectives for the construction industry.

5. Impacts – Positive and Negative

The anticipated impacts of the proposed Construction Act are as follows:

Positive impacts

The following are some of the key positive impacts, amongst others:

- Provide the required legal status to the Authority to conduct its regulatory functions more effectively.
- Establish Engineering Council to professionalize and regulate the engineering professions within the sector
- Define clear roles and responsibilities among the key actors within the sector

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- Professionalize construction sector
- Improve quality of construction
- Improve coordination
- Regulate construction practice
- Create employment opportunities to Bhutanese
- Capacity building of engineering professions and contractors
- Promote mechanization
- Foster innovation through R&D
- Promote quality and safety
- Promote accountability

Negative impact

- Establishment of Secretariat office for Engineering Council will entail cost.