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Ministry of Energy and Natural Resources  
Royal Government of Bhutan  
Thimphu

**BHUTAN**  
Believe

**SECRETARY**

MoENR/SEC/CAB/14/2024 279

24th June, 2024

The Secretary,  
Cabinet Secretariat  
Thimphu

**Subject: Submission of Legislative Proposal and Legislative Impact Assessment report on the Electricity Act of Bhutan, 2001**

Dasho,

In accordance with the Cabinet directive vide letter no. C-3/144/2023/1662 dated 05.06.2024 to conduct a Legislative Impact Assessment (LIA) for the Electricity Act of Bhutan (EAB) 2001, the Ministry initiated the LIA process by framing and circulating the survey questionnaire to the key and relevant stakeholders. The survey questionnaire was aimed to assess the gaps and the issues in the existing Act and whether there is a need for amendment and consolidation as an Energy Bill.

The survey responses were analyzed to understand any strength, shortcoming, issues and opportunities regarding the existing EAB and therefore served as a basis for drawing inferences to support the compilation of the LIA report. From the survey, 81.3% of the respondents agreed for the amendment of the EAB and 62.5% agreed for a consolidated Act as "Energy Act" covering all domains of energy. Given the gap analysis and the survey responses, the Ministry proposes for formulation of the Energy Bill.

In this regard, the Ministry would like to submit the Legislative Proposal and LIA report on the EAB 2001 for endorsement by the Lhengye Zhungtshog. The Ministry's approved note, Legislative Proposal and the LIA report are being submitted for your kind perusal.

With warm regards,

(Karma Tshering)  
**SECRETARY**



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Ministry of Energy and Natural Resources  
Royal Government of Bhutan  
Thimphu

**BHUTAN**  
Believe

**SECRETARY**

Copy to :

1. The Honorable Minister, MoENR, for kind information.
2. Director, DoE, MoENR, Thimphu.
3. CEO, ERA, Thimphu for kind information.
4. Chief Legal Officer, LSD, MoENR, Thimphu





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ROYAL GOVERNMENT OF BHUTAN  
MINISTRY OF ENERGY AND NATURAL RESOURCES  
THIMPHU: BHUTAN

**BHUTAN**  
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MoENR/LD/Misc/08/2024/104

20th June, 2024

**NOTESHEET**

**Subject: Legislative Impact Assessment Report on the Electricity Act of Bhutan 2001**

Following the enactment of the Civil Service Reform Act 2022 and the institutional reforms that followed, the Ministry of Energy and Natural Resources has received a Cabinet directive vide letter no: C-3/144/2023/1662 dated 05.06.2023 to conduct a Legislative Impact Assessment (LIA) for the Electricity Act of Bhutan (EAB), 2001. In this regard, the Department of Energy (DoE) in collaboration with the Legal Service Division (LSD) and Electricity Regulatory Authority (ERA) initiated the LIA process by framing and circulating the survey questionnaires to the key and relevant stakeholders. The survey questionnaire was aimed to assess the gaps and issues in the existing act and whether there is a need for amendment and consolidation as an Energy Bill.

The discussion for the LIA was initiated in January 2024, and the work plan and draft questions were shared with DoE and ERA for suggestions and firming up. Thereafter, the questions were discussed among the three agencies, finalized, and distributed to the stakeholders in April 2024. The list of stakeholders included Department of Energy, Electricity Regulatory Authority, Druk Green Power Corporation, Bhutan Power Corporation, Department of Forest and Park Services, Department of Water, National Land Commission Secretariat, Punatsangchhu Hydroelectric Power Project I&II, Bhutan Chamber for Commerce & Industry and Competition and Consumer Affairs Authority, Ministry of Industry, Commerce and Employment. Although responses to the questionnaires were expected much earlier, the time had to be extended due to the poor responses by the stakeholders. Upon several follow-ups, only 15 responses were received within 17.05.2024 based on which the LIA report was consolidated and finalized for submission.

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Ministry Energy & Natural Resources  
Dak Received No. 257  
Date 21/6/24



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**ROYAL GOVERNMENT OF BHUTAN**  
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**THIMPHU: BHUTAN**

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The survey responses were analyzed to understand any strength, shortcoming, issues and opportunities regarding the existing EAB and therefore served as a basis in drawing inferences to support the compilation of the LIA report. From the survey, 81.3% of the respondents agreed for the amendment of the EAB and 62.5% agreed for a consolidated Act as Energy Act covering all the domains of energy. Given the gap analysis and the survey responses, the LIA report proposes for formulation of the Energy Bill. The LIA report including survey findings are enclosed herewith for kind consideration.

In view of the above, the LSD and DoE would like to submit the LIA report to the Ministry for consideration and approval for submission to the Cabinet Secretariat.

(Nima Om)

**Chief Legal Officer**

(Karma P. Dorji)

**Director, DoE**

  
21/6/2024  
**Secretary, MoENR**  
21/6/2024  
**Hon'ble Lyonpo, MoENR**



## LEGISLATIVE PROPOSAL

### Title of the proposal:

Type of Legal Measure: Energy Bill (Amendment of Electricity Act, 2001 and rename it as "Energy Bill")

Lead Ministry/Commission/Agency: Ministry of Energy and Natural Resources (Department of Energy, Electricity Regulatory Authority)

Expected Date Of Adoption Day/Month/Year: 2026

### PROBLEM IDENTIFICATION

The existing Electricity Act of Bhutan of 2001 (EAB) was formulated primarily to establish the Bhutan Electricity Authority and outlines its roles as a regulator of the power sector. However, the EAB has overlapping provisions regarding policy, planning, and regulatory functions. In addition, post 2001, several institutional reforms took place with the major one being the civil service reform which the EAB does not address. Furthermore, the scope of EAB is confined to electricity and does not address the whole spectrum of energy resources, development and supply concerning solar, wind and other energy resources. Further, the EAB does not adequately address the energy security, efficiency & conservation, adoption of emerging and evolving technologies (energy storage, pumped storage hydropower and batteries, hydrogen, etc.), market liberalization, deviation settlement mechanism (DSM)/Grid Discipline Mechanism (GDM), consumer rights, cross border energy trade, regional grid integration, etc. The Act also sets out capping for exemption of license (<500kW), which needs to be revisited, considering the evolving energy situation and national prioritization.

### OBJECTIVE OF THE PROPOSAL

The objectives of the proposal are as follows:

1. Harmonize with other relevant laws (Land Act, Water Act, Environment Act, and Civil Service Reform Act);
2. Broaden the scope under the new Energy Bill;
3. Bring clarity in institutional arrangement and the respective mandates, powers & functions;
4. Enhance accountability, transparency & efficiency;
5. Strategise long-term growth through renewable energy development, technology adoption, market development, consumer rights, cross-border trade, and regional grid integration;
6. Create a conducive environment for private sector involvement;
7. Promote energy efficiency and conservation;
8. Steer energy transition through reduced use and import of fossil fuels substituted by clean



electricity; and

9. Ensure a climate-resilient and a secured national energy system.

In view of the above mentioned objectives, the expected outcomes of the proposal is as follows:

The adoption of the Energy Bill with a broadened scope to encompass the entire energy ecosystem like resources, its development, supply, utilization, energy security, institutional arrangements, private sector participation, emerging technologies, smart grids, cyber security, reliability, energy efficiency, markets, power trading, ancillary services, climate resilience, investments, etc. Hence, a clarity in mandates (roles & responsibilities) of policy makers, regulators, utilities, consumers, and private sector will be ensured. The institutional arrangement would guarantee improved accountability, transparency, efficiency and reliability in the harnessing and utilization of energy. The Energy Bill would serve as the legislative framework for the long term growth strategy of the sector through development of sustainable and financially viable energy resources. It would also promote the adoption of emerging technologies, electricity trading through regional integration & market mechanisms. By implementing these measures, the proposal aims to create a robust and comprehensive legislative arrangement that supports the sustainable and efficient growth of the energy sector, enhancing overall energy security and resilience.

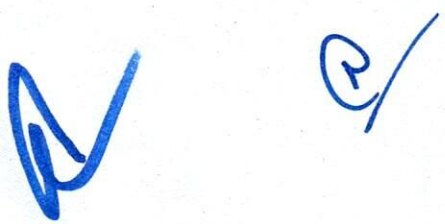
## **POLICY OPTIONS**

**What are the options that are available to reach the objective and what range of alternatives will be considered?**

Considering the aforementioned issues, the only prudent option to reach the objectives is to seek legislative intervention i.e to amend the Electricity Act in whole, broaden its scope to encompass all components of the energy sector and formulate the Energy Bill.

Only comprehensive legislation as proposed has the potential to address the wide array of issues in the energy sector by establishing a comprehensive legal structure that delineates the rights, duties, and responsibilities of all stakeholders. This proposed legislation will bring stability and predictability, essential for encouraging long-term investments and the development of robust infrastructure, by providing a well-defined set of guidelines and standards. Moreover, the legislation will ensure public accountability by subjecting regulations to public scrutiny and democratic processes, fostering transparency, fairness, and trust among all parties involved. To maintain compliance and promote fair competition, enforceable mechanisms can be implemented through regulatory bodies and judicial processes. For these reasons, consideration of any other alternatives such as partial amendment of the EAB or administrative arrangements will lead to increased ambiguities in institutional arrangements and mandates and challenges implementation and enforcement.

**How have the principles of subsidiarity and proportionality been taken into account?**



The new proposal will have clarity on the roles and responsibilities of the Ministry, technical Department and regulatory agencies and cover all the domains of energy. Further, there will be review of the fines and penalties under the new laws in proportion to the level of offence and compliance measures. The delegated legislation such as rules and regulations will be formulated.

#### **IMPACTS – POSITIVE AND NEGATIVE**

The revision of EAB is expected to broaden the scope of the law and bring in clarity in the roles and responsibilities of each relevant sector such as the Ministry, utilities, consumers and private investors. It will increase efficiency of relevant sectors and transparency and accountability. Except for the concerns relating to the adaptation and compliance by the general public in the initial stages of the implementation of the Bill, we do not foresee any negative impacts that could be associated with the proposal.

The affected parties of the proposed bill will include the following:

1. Ministry, National Land Commission & Electricity Regulatory Authority: To bring in clarity in the institutional structure, roles & responsibilities and harmonization with existing laws;
2. Utilities: Bring in more clarity in the operating procedures, which will facilitate efficient service delivery and drive financial prudence and investment decisions besides private participation in distribution services;
3. Private investors/developers: Enabling framework for private participation in electricity industry business; and
4. Consumers: Consumers will experience better services with improved service delivery by the utilities through strict compliance to the regulatory requirements and ensuring access to safe, reliable, & affordable electricity.

Two blue ink signatures are present at the bottom of the page. The signature on the left is a stylized, cursive 'R' with a horizontal line underneath. The signature on the right is a more complex, flowing cursive script that ends with a long, sweeping diagonal stroke.