

DRAFT WASTE PREVENTION AND MANAGEMENT ACT OF BHUTAN, 2008

PREAMBLE

Being mindful of the adverse impacts of unmanaged waste on the fragile ecology of the country, this Act is aimed at prevention and reduction of volumes of waste generation, promotion of segregation, reuse, recycling and management of waste in an environmentally sound manner.

Protecting the environment and human health through sound management of waste in pursuit of Gross National Happiness and the age old tradition of living in harmony with nature.

Acknowledging every citizen's duty to preserve, protect and respect the environment, culture and heritage of the nation as enshrined in the Constitution.

Ensuring sustainable development and inter-generational equity through conservation and enhancement of the environment for the benefit of future generations.

This Waste Prevention and Management Act has been enacted by the session of the National Assembly on.... day of the....month of the Earth Rat year of the Bhutanese calendar, corresponding to 2008 as follows:

CHAPTER I PRELIMINARY

Title, Extent and Commencement

1. This Act shall:
 - a) Be called the Waste Prevention and Management Act of Bhutan, 2008.
 - b) Come into force on theday of themonth of the Earth Rat Year Bhutanese calendar, corresponding to theday.... 2008
 - c) Extend to the whole of Bhutan.

Application

2. This Act shall extend to all forms of waste whether solid, liquid, or gaseous, hazardous or non-hazardous, organic or inorganic, from residential, agricultural, commercial, medical or industrial sources, produced by any person, including materials being stored for recycling or in the process of recycling, including the transportation of waste in any form, and import and export of waste in Bhutan.

Repeal

3. The provisions of all existing Acts, Regulations and administrative instruments governing waste issues which are inconsistent with this Act are hereby repealed.

CHAPTER II

PRINCIPLES APPLICABLE TO WASTE PREVENTION AND MANAGEMENT

Purpose

4. The purpose of the Act shall be to protect and sustain human health through protection of the environment by:
 - a) reducing the generation of waste at source;
 - b) promoting the segregation, reuse and recycling of wastes
 - c) disposal of waste in an environmentally sound manner; and
 - d) effective functioning and coordination among implementing agencies.

Principles

5. All persons and Implementing Agencies and their Successive Agencies shall perpetually strive to consider and adopt the following principles in managing waste.

Fundamental right and duty

6. A person has the fundamental right to a safe and healthy environment with equal and corresponding duty to protect and promote the environmental wellbeing of the country.

The Middle Path and Gross National Happiness

7. In the pursuit of sustainable economic development, environmental conservation shall receive equal priority in line with the philosophy of the Middle Path and Gross National Happiness.

Precautionary Principle

8. Every person shall take all precautionary measures in maintaining a clean and healthy environment.
9. All developmental activities that generate waste shall be planned and executed in harmony with the carrying capacity of the country's fragile ecological settings and geographical terrains.

Polluter Pays Principle

10. A person polluting the environment or causing ecological harm shall be responsible for the costs of containment, avoidance, abatement, medical compensation, mitigation, remediation and restoration.

Principle of Waste Minimization Hierarchy

11. In achieving the purpose of this Act, all persons shall in line with the concept of 3Rs:
 - a) Avoid, eliminate, or substitute the use of products or unnecessary packaging that generate waste.
 - b) Reduce the generation of waste from the manufacture and use of products.
 - c) Reuse products and packaging materials.
 - d) Recycle material from waste for production of new products.
 - e) Recover material from waste for energy production and other uses.

- f) Treat and dispose waste to reduce and eliminate harms to the environment.
- g) Treat and dispose waste to avoid harm to human health.

CHAPTER III

MANAGEMENT REQUIREMENTS FOR CATEGORIES OF WASTE

Non-hazardous waste

- 12. Implementing agencies shall ensure that the reduction, reuse, recycling and disposal of non-hazardous waste are addressed in an environmentally sound manner. In doing so, agencies shall:
 - a) Provide waste segregation and reduction mechanisms at source; and
 - b) Ensure collection and adequate management of waste at an approved site or facility inter alia composting for organic wastes.

Hazardous waste

- 13. (a) Implementing agencies shall prevent manufacturing of products potential to generate hazardous waste. The agencies shall also ensure that the reduction, storage, treatment, and disposal of hazardous waste are addressed in an environmentally sound manner. In doing so, agencies shall:
 - i) Undertake segregation and relevant pre-treatment.
 - ii) Ensure collection and adequate management of hazardous waste at an approved site or facility.
- b) Hazardous wastes shall not be imported into the Kingdom of Bhutan.
- (c) Hazardous wastes may only be exported subject to the prior written consent of the country of import.

Medical waste

- 14. Implementing agencies shall ensure that the minimization, storage, treatment and disposal of medical, pharmaceutical and other biologically hazardous waste are addressed in an environmentally

sound manner. In doing so, agencies shall ensure appropriate pre-treatment of this type of waste.

E-waste

15. Implementing agencies shall ensure that the minimization, storage, treatment and disposal of waste from the production and use of electrical and electronic equipment are addressed in an environmentally sound and safe manner. In doing so, a system shall be established by the relevant implementing authority to provide for the proper collection, treatment and safe disposal of end-of life electrical and electronic equipments.

Other Waste Categories

16. The waste categories enumerated in sections 12-15 of this Act may cover waste generated from any and all sources, including but not limited to industrial wastes, municipal waste and agricultural waste.

CHAPTER IV

RESPONSIBILITIES

Public Responsibility

17. All persons shall segregate, reduce, reuse and recycle waste, avoid littering, dispose waste properly and provide for a healthy environment.
18. All persons shall cooperate with the Implementing Agencies in their activities for waste reduction by restricting their waste generation, using recycled products or otherwise contributing towards recycling and re-use of waste and segregation of waste prior to its disposal.

Implementing Agencies

19. Specific responsibility for implementation shall vest with the following agencies and any others as may be determined by the National Environment Commission:
 - a) The Ministry for Works and Human Settlements and City Corporations for ensuring waste prevention and management in the Throms and Thromdes.

- b) Dratshang Lhentshog for ensuring waste prevention and management in Dratshangs, Lhakhangs, Goendeys and other religious sites.
- c) The Dzongkhag Tshogdu and Gewog Tshogde supported by the Dzongkhag, Dungkhag and Gewog administration for ensuring waste prevention and management at Dzongkhag, Dungkhag and Gewog level not covered under (a) including the management of rural human waste with guidance from the Ministry of Health.
- d) The Ministry of Economic Affairs, relating to wastes resulting from Trade and Industries:
 - (i) The Department of Trade, Ministry of Economic Affairs, for ensuring waste prevention and management with respect to wastes resulting from transboundary trade including import, export of waste and waste producing materials.
 - (ii) The Department of Industry, Ministry of Economic Affairs, for ensuring waste prevention and management with respect to industrial wastes.
 - (iii) Tourism Council of Bhutan for ensuring waste prevention and management from hotels, restaurants, camp sites and trekking routes, outside the areas covered under Section 19(a) and (c).
- e) The Ministry of Health, for ensuring waste prevention and management of medical related waste including providing guidance on rural human waste management under section 19(c).
- f) The Ministry of Education for ensuring education and awareness on waste prevention and management as part of the curriculum in institutions and schools.
- g) The Drug Regulatory Authority for ensuring waste prevention and management in pharmaceutical firms and pharmacies.
- h) The Ministry of Agriculture, for ensuring waste prevention and management with respect to the agricultural sector, including live-stock and forestry.

- i) The Road Safety and Transport Authority, Ministry of Information and Communication, for ensuring waste prevention and management with respect to the transport sector, including from public transportation.
 - j) The Department of Revenue and Customs, Ministry of Finance, for ensuring reduction of waste by restricting entry of products that generate large volumes of waste through imposition of taxes, customs and excise duties.
 - k) Department of Information Technology, Ministry of Information and Communication for ensuring waste prevention and management with respect to e-waste.
 - l) Office of the Armed Forces for ensuring waste prevention and management within campuses of the armed forces and cooperating with the Implementing Agency for preventing and managing waste in their respective areas.
 - m) Civil Society Organizations and the Media for assisting in waste prevention and management through education and public awareness and promoting public-private partnership.
20. These responsibilities are supplementary to any authorities, responsibilities or duties that the above agencies may have under other statutes. Any successive agencies resuming the same responsibilities as the implementing agencies mentioned in this Chapter, shall undertake the specified responsibilities under this Act.

CHAPTER V

AUTHORITY OF THE NATIONAL ENVIRONMENT COMMISSION

Authority of the National Environment Commission

21. The National Environment Commission shall be the regulatory authority for waste prevention and management. NEC shall be responsible for coordinating and overseeing the implementation of the Act and have the authority to:
- a) Issue directives that are binding on all persons and Implementing Agencies.

- b) Establish standards and guidelines for the disposal of waste, including segregation requirements of wastes at source.
- c) Collect reports from Implementing Agencies and information about waste generation, reduction, reuse, recycling, and disposal.
- d) Prepare reports and provide advice to the Prime Minister, the National Assembly and the public.
- e) Issue environmental clearances as per the Environmental Assessment Act, 2000.
- f) Monitor overall compliance by the Implementing Agencies under this Act.

CHAPTER VI

POWERS AND DUTIES OF IMPLEMENTING AGENCIES

Powers and Duties of Implementing Agencies

- 22. All Implementing Agencies listed in Section 19 shall use their authority and powers to achieve the purpose of this Act. This includes inspection, monitoring and enforcement of implementation mechanisms in accordance with Chapter VII.
- 23. To ensure coherent and effective implementation of the Act, all Implementing Agencies shall issue regulations relating to waste management in their respective areas of implementation in consultation and agreement with the National Environment Commission.
- 24. All Implementing Agencies shall collect information and maintain records of waste generation and waste management activities within their areas of responsibility. The implementing agencies shall provide this information to the National Environment Commission periodically.

CHAPTER VII

MECHANISMS FOR IMPLEMENTING AGENCIES

Mechanisms for Managing Waste

25. Implementing agencies may adopt mechanisms within the scope of their authority, including but not limited to the mechanisms in this Chapter.

Administrative mechanisms

26. The Implementing Agencies may:
- a) Frame rules and regulations governing specific areas of implementation.
 - b) Issue executive government orders prohibiting or restricting the sale, distribution, or use of excessive packaging or products resulting in large volumes of waste.
 - c) Prepare and adopt waste management plans, including plans for private businesses and industry to undertake reduction of waste generation and disposal, such as through mandatory segregation of waste.
 - d) Impose restrictions on littering and disposal of wastes on land, air and water bodies.
 - e) Frame procedures for the disposal of waste.
 - f) Conduct inspection and enforce the provisions of this Act and regulations.

Financial mechanisms

27. The Implementing Agencies in conformity with relevant laws may:
- a) Impose waste tipping fee, waste management fee on the sale, distribution or use of products or packaging or on the collection or disposal of waste, including but not limited to, deposit-refund schemes, waste collection charges, or waste disposal charges.

- b) Distribute funds from waste management fees or other budgetary sources for activities related to waste reduction, reuse, recycling, and disposal, including payments to persons, agencies or civil society organizations for the collection, recycling and disposal of waste in an environmentally sound manner.
- c) Provide tax incentives for environmental services and/or manufacture of environmentally friendly products.
- d) Provide grants or co-financing for civil society, public-private partnerships, and private initiatives for waste management, including but not limited to scrap dealers and recyclers.
- e) Reduction in custom and other duties for the import of plants and equipments for sound waste management and environmentally friendly products resulting in minimal waste.
- f) Increase in custom and other duties for the import of products which generate large volumes of waste.

Physical mechanisms

- 28. The Implementing Agencies may establish facilities such as segregation and/or transfer stations, where needed to optimize collection and management of waste.

Private sector involvement

- 29. The Implementing Agencies may enter into contracts or other forms of arrangements with private parties to provide for waste reduction, reuse, recycling, disposal or other forms of management.

Awareness and Outreach mechanisms

- 30. The Implementing Agencies shall:
 - a) Inform the public about the opportunities and obligations under this Act through education, training, awareness and other public outreach programs
 - b) Encourage persons to purchase or use products that are produced in whole or in part from recycled materials.

- c) Conduct advocacy programmes through all forms of media for educating the public on waste reduction and sound waste management systems.

Research mechanisms

31. The Implementing Agencies may conduct research activities on methods to reduce waste generation, reuse, and recycling and provide for environmentally sustainable waste disposal in the country.

CHAPTER VIII

FINANCE

Financing by the Royal Government of Bhutan

32. The Royal Government of Bhutan shall allocate sufficient funds to enable the National Environment Commission and the Implementing Agencies to exercise and discharge their powers and duties effectively under this Act.

Fees and Other Sources of Funding

33. All forms of fees, charges and fines collected pursuant to this Act and its regulations shall be ploughed back into waste management systems for effective implementation of this Act. This provision does not limit in any way the obligation pursuant to section 32 or additional funding from other sources.

CHAPTER IX

GENERAL PROCEDURES

Cooperation among Agencies

34. In exercising their powers and duties, the National Environment Commission and Implementing Agencies shall endeavor to work cooperatively and in consultation with all stakeholders that might be affected in the course of implementation of this Act.

Right of Citizens Participation

35. All regulations and other decisions pursuant to this Act shall be made in conformity with the right of citizens to participate in environmental decisions, as provided in sections 86-87 of the National Environment Protection Act, 2007.

Right to Environmental Information

36. The provision of the right to environmental information laid down under section 81 of the National Environment Protection Act, 2007, shall apply to this Act.

CHAPTER X

OFFENCES AND PENALTIES

Obligation of Compliance

37. All Persons shall comply with the obligations set forth in this Act and regulations thereof.

Duty to report

38. A person shall report to the nearest local authority when he has the knowledge of any person releasing any nature of waste into the environment in a manner other than the prescribed disposal procedures.

General Liability

39. Offences and penalties not specifically covered under this Act shall be dealt with according to the Penal Code of Bhutan and any other applicable law in force.

Administrative Sanctions

40. The Implementing agencies shall have the authority to issue administrative orders to persons in violation of the provisions of this Act or its regulations. Such orders may specify what actions the violator must undertake to come into compliance, set a deadline by which compliance must be undertaken, including immediate

compliance and provide for administrative sanctions for failure to comply with the order.

41. The Implementing Agencies shall also have the authority to assess and determine administrative sanctions for any violation of the provisions of this Act or its regulations. The administrative sanction may comprise one or more of the following:
- (a) payment of a fine not exceeding twelve man-months of the minimum National Wage Rate;
 - (b) order to take mitigating, corrective or restorative measures as may be deemed necessary to prevent further damage being caused to human health and/or environment;
 - (c) reimbursement of any costs incurred by an authority because of the offenders' failure to take the notified measures in time;
 - (d) payment of compensatory costs for rectifying any damage to the environment, persons or property caused by the offence;
 - (e) suspension or revocation of an environmental clearance, in part or in whole;
 - (f) in the event of the offence being continued after stop order, a fine equivalent to ten man-months as per the minimum National Wage Rate per day till the day such offence is discontinued; and
 - (g) shut down any activity without compensation when an offence continues after stop order.

Offence of felony

42. A person committing any of the following acts shall be guilty of an offence of felony of fourth to first degree and shall be liable to be sentenced in accordance with Bhutan Penal Code:
- (a) Importing of hazardous waste into the territory of Bhutan causing serious physical injury to the human health and/or serious harm to the environment.

- (b) Disposal of hazardous waste in public places creating substantial risk of serious harm to the environment, physical injury and/or permanent disability to the person.
- (c) Dumping of hazardous waste into water bodies, land and emission of hazardous gaseous pollutants into the air, if the contamination results in an epidemic, death or serious public hazard and/or serious harm to the environment.

Offence of misdemeanour

43. A person committing any of the following acts shall be guilty of an offence of misdemeanour and shall be liable to be sentenced in accordance with Bhutan Penal Code:
- (a) Importing of hazardous waste into the territory of Bhutan.
 - (b) Disposal of hazardous waste in public places.
 - (c) Dumping of hazardous waste into water bodies, land and emission of hazardous gaseous pollutants into the air.

Offence of petty misdemeanour

44. A person committing any of the following acts shall be guilty of an offence of petty misdemeanour and shall be liable to be sentenced in accordance with Bhutan Penal Code:
- (a) Indiscriminate littering in the public places.
 - (b) Obstructs any person in the exercise of the powers and authority conferred on him under this Act.
 - (c) Failure or refusal to assist any person in the effective exercise of the powers and authority conferred under this Act.
 - (d) Failure or refusal to provide information required for research or other purposes under this Act.
 - (e) Knowingly reporting of false information.
 - (f) Failure to comply with administrative sanctions.

Violation

45. Any person failing to report to the nearest local authority as per section 38 shall be guilty of an offence of violation and shall be liable for fines in accordance with Bhutan Penal Code.

Penalty Assessment

46. In imposing administrative sanctions for violations relevant implementing agencies shall consider:
- (a) the magnitude of the offence;
 - (b) the frequency of the offence;
 - (c) actual or potential impact on the environment and human health;
 - (d) the culpability of the offender;
 - (e) the extent of the achieved or intended economic advantage from the offence;
 - (f) the need to deter future violations of the provisions of this Act and regulations by the same or other persons.

CHAPTER XI

MISCELLANEOUS

Reporting Requirements and Citizen Complaint Procedure

- 47 (a) The National Environment Commission shall report periodically to the Royal Government and the Parliament on implementation and enforcement of this Act.
- (b) Persons shall have the right to complain in written form to National Environment Commission and relevant Implementing Agencies about violations of the provisions of this Act and its regulations. The National Environment Commission and implementing agencies shall have the responsibility to investigate these complaints to the extent feasible and take necessary action.
- (c) In order to achieve administrative efficiencies and to the extent practicable, the National Environment Commission may combine its reporting duties under this Act with any other reporting obligations it may have under any other Act.

International Coordination and Agreements

48. The National Environment Commission shall be consulted by any Implementing Agencies before entering into any international agreements, contracts, obligations or other arrangements relating to waste management.
49. The National Environment Commission may enter into international agreements relating to waste management with the prior approval of the Royal Government.

Power to make rules and regulations

50. The National Environment Commission and Implementing Agencies may make rules for carrying out the purposes of the Act.

Amendment

51. When necessary the National Environment Commission, either on the basis of proposals from the implementing agencies or on its own initiative, shall submit a report and proposals to the Parliament for any amendment to the Act

Rule of construction

52. In this Act, unless the context indicates otherwise, the singular shall include the plural and the masculine shall include the feminine.

Authoritative Text

53. In case of differences in the interpretation of this Act in the Dzongkha and the English texts, a harmonious construction in pursuance of the purpose of the Act shall be sought.

Jurisdiction

54. A Court of law or any specialized court or tribunal which may be established by the Royal Government of Bhutan having jurisdiction shall hear cases arising under this Act and implementing regulations.

Definitions

55. In this Act, unless the context otherwise requires:
- (1) **Act** means the Waste Prevention and Management Act of Bhutan, 2008.
 - (2) **Agency** includes municipal bodies under the Thromde Act 2007, or any ministry, department, or autonomous public body of the Royal Government of Bhutan including local government entities or Companies incorporated under the Companies Act 2000.
 - (3) **Approved site or facility** means the site or facility approved for the purpose of disposal in accordance with the Environment Assessment Act, 2000. Human waste pits/latrines in rural areas constructed in accordance with guidelines from the Ministry of Health shall be included in this definition.
 - (4) **Civil Society Organizations (CSO)** shall refer to associations, societies, foundations, charitable trusts, non-for-profit organizations or other entities that are registered as per the Civil Society Organizations Act, 2007.
 - (5) **Environment means** the physical factors of the surroundings of human beings including the earth, soil, water, atmosphere, climate, sound, odors, tastes and the biological factors of animals and plants of every description including the complex web of interrelationships between the abiotic and biotic components which sustain life on earth.
 - (6) **Environmentally Sound Manner** means in a manner which will protect human health and the environment against the adverse effects which may result from waste generation and disposal.
 - (7) **E-waste** means discarded, obsolete or recyclable electrical or electronic equipment including all components, subassemblies and consumables at the time of discarding.
 - (8) **Government** means the Royal Government of Bhutan.
 - (9) **Hazardous waste** means a waste a) which because of its quantity, concentration, persistence or physical, chemical or infectious characteristics may cause or significantly contribute to an increase in

mortality or an increase in serious irreversible, or incapacitating reversible, illness, or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed and b) belong to any of the categories listed in Annexes to the regulation on hazardous waste under this Act.

- (10) **Human waste** means byproducts from humans such as feces and urine of digestion processes.
- (11) **Implementing Agency** means any government, non-government, private entity or person that is empowered under this Act and those required by the National Environment Commission to implement its provisions.
- (12) **Inorganic waste** means waste that cannot undergo anaerobic or aerobic decomposition.
- (13) **Medical waste** means waste stemming from medical procedures and treatments in hospitals, basic health units, clinics, animal husbandries, veterinary hospitals, and domestic households.
- (14) **National Environment Commission (NEC)** means the National Environment Commission, as established under the National Environment Protection Act of Bhutan, 2007.
- (15) **Non-hazardous waste** means waste not covered by section 55(9).
- (16) **Organic waste** means biodegradable waste that is capable of undergoing anaerobic or aerobic decomposition, such as food and vegetable waste from the kitchen, bushes, garden waste, paper and paperboard.
- (17) **Person** means any individual or legal entity or agency whether registered or not registered under the Companies Act, 2000.
- (18) **Recycling or recycled** means the reprocessing of materials from waste to usable new products.
- (19) **Segregation** means the separation of waste into waste fragments according to the management procedures required for environmentally sound management.

- (20) **Transfer station** means a facility for the segregation and intermediary collection and disposal of waste.
- (21) **Throm** means a small urban area with a minimum population of 100 - 4,999 of which 50% of the population is dependent on non-primary and agricultural business activities.
- (22) **Thromde** means a large urban area or a municipality with a minimum population of 5,000 people in which more than 50 % of the population is dependent on non-primary activities and having the potential to sustain its services through its revenues such as taxes and fees.
- (23) **Waste** means any material or substance in whatever form, whether solid, liquid, or gaseous, hazardous or non-hazardous, organic or inorganic that has lost its primary value and is disposed of, intended to be disposed of or recycled.
- (24) **Waste Management** means controlling the generation of wastes, minimizing its quantities and adverse impacts through administrative, financial, legal, planning and engineering functions of storage, collection, transfer and transportation, treatment and disposal in a manner consistent with the best principles of public health, economics, engineering, conservation, aesthetics and other environmental considerations.