

དཔལ་ལྷན་འབྲུག་གཞུང་།
ROYAL GOVERNMENT OF BHUTAN



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THE LAND ACT OF BHUTAN 2007

Table of Contents

PREAMBLE	1
CHAPTER 1: PRELIMINARY	2
TITLE, EXTENT AND COMMENCEMENT	2
REPEAL AND SAVING	2
CHAPTER 2: ORGANIZATION OF LAND ADMINISTRATION	2
ESTABLISHING NATIONAL LAND COMMISSION	2
MEMBERS OF NATIONAL LAND COMMISSION	3
FUNCTIONS OF NATIONAL LAND COMMISSION	3
OFFICE PROCEDURE OF NATIONAL LAND COMMISSION	5
ESTABLISHING NATIONAL LAND COMMISSION ECRETARIAT	6
FUNCTIONS OF NATIONAL LAND COMMISSION ECRETARIAT	6
CHAPTER 3: CHHAZHAG SATHRAM	8
CHHAGZHAG SATHRAM AS NATIONAL LAND RECORDS	8
CONTENTS OF THRAM	8
LAND CATEGORIES FOR REGISTRATION IN THRAM	9
CERTIFICATION ON LAND CATEGORIES	10
REGISTRATION OF LAND IN THRAM	11
OWNING MORE THAN ONE THRAM	12
ISSUE OF LAG THRAM	12

VERIFICATION OF LAG THRAM	12
AUTHORITY TO REGISTER LAND OR AMEND CHANGE IN THRAM	12
REPORT OF DISCREPANCY	13
AMENDMENT OR ISSUE OF NEW THRAM	13
CADASTRAL SURVEY ON REGISTERED LAND	13
PRESERVATION OF SURVEY MONUMENTS	15
CORRECTION OF NAME OF LANDOWNER	16
CORRECTION OF ERRORS IN THRAM AND CADASTRAL RECORDS	16
ACCESS TO DATA IN THRAM	19
SETTLEMENT OF LAND DISPUTES	19
CHAPTER 4: ENTITLEMENT AND GRANTING OF LAND	20
ENTITLEMENT TO OWN LAND	20
OWNERSHIP OF LAND UPON REGISTRATION IN THRAM	21
LAND MAY BE OWNED ANYWHERE IN THE KINGDOM	22
LAND CEILING	22
EXEMPTION FROM LAND CEILING	23
MINERAL RESOURCES ON REGISTERED LAND	23
GRANTING KIDU AND REHABILITATION LAND	23
CHAPTER 5: REGISTRATION OF LAND IN CHHAZHAG SATHRAM	24
LAND OF INDIVIDUAL PERSON	24
LAND OF FAMILY	24
LAND UNDER JOINT OWNERSHIP	24
LAND OF CORPORATIONS	24

LAND OF RELIGIOUS INSTITUTIONS	24
LAND OF CIVIL SOCIETY ORGANIZATIONS	25
LAND OF GOVERNMENT INSTITUTIONS AND GERAB DRATSHANG	25
LAND ON DEFAULT OF MORTGAGE	25
SUBSTITUTE LAND	25
KIDU AND REHABILITATION LAND	25
PROHIBITION ON REGISTRATION OF LAND IN THE NAME OF MINOR	26
LAND OF MINORS	26
CHAPTER 6: RIGHTS AND OBLIGATIONS OF LANDOWNERS	26
RIGHT TO REGISTERED LAND	26
INTERCHANGEABILITY AND USE OF LAND	27
CONVERSION OF CHHUZHING TO OTHER USES	27
USE OF CHHUZHING AS RESIDENTIAL LAND	27
RIGHT TO TRANSACT LAND	28
RIGHT TO TREES ON REGISTERED LAND	29
RIGHT TO TREES ON BOUNDARY OF REGISTERED LAND	29
RIGHT TO FRUITS AND TIMBER FROM NATURALLY GROWN TREES ON BOUNDARY	30
RIGHT TO TREES ON KIDU, REHABILITATION AND SUBSTITUTE LAND	30
OWNERSHIP OF IMMOVABLE PROPERTIES ON TRANSACTIONED LAND	30
RIGHT TO OMITTED LAND	30
VERIFICATION OF LAND BOUNDARY	31
MERGING OF CONTIGUOUS LAND PARCELS	31

STRUCTURES ON BOUNDARY	31
LAYING OF STRUCTURES IN ONE'S REGISTERED LAND	32
EXCHANGE OF REGISTERED LAND WITH GOVERNMENT RESERVED FORESTS LAND	32
PAYING LAND TAX	32
ACCESS TO REGISTERED LAND	33
ACCEPTING LAND BOUNDARY	34
LAND OF A BHUTANESE CITIZEN WHO HAS MIGRATED	34
ENCROACHMENT ON OTHERS' LAND	34
PROHIBITION TO USE COMMUNITY LAND FOR OTHER PURPOSES	35
UNDER-UTILIZATION AND UNDER DEVELOPMENT OF LAND	35
PROHIBITED LAND TRANSACTIONS	35
NO TRANSACTION OF LAND UNDER THE PROCESS OF OWNERSHIP CHANGE	36
WITHDRAWAL OF LAND TRANSACTION	37
CHAPTER 7: ACQUISITION OF REGISTERED LAND	37
ACQUISITION OF REGISTERED LAND	37
MODE OF COMPENSATION FOR LAND ACQUIRED	38
VALUATION OF LAND AND PROPERTY	38
APPROVING AND REVISING COMPENSATION RATE	39
LOCATION OF SUBSTITUTE LAND	39
NO CHOICE FOR SUBSTITUTE LAND	39
NON-ENCLOSURE OF GOVERNMENT LAND OR GOVERNMENT RESERVED FORESTS LAND	39
TAKING OVER ACQUIRED LAND	39

CHAPTER 8: PROCEDURES ON LAND CONVEYANCE	40
TRANSACTION OF PRIVATE REGISTERED LAND	40
CONVERSION OF LAND CATEGORIES	41
CONVERSION OF CHHUZHING AS RESIDENTIAL LAND	42
EXCHANGE OF REGISTERED LAND WITH GOVERNMENT RESERVED FORESTS LAND	43
TRANSFER OF LAND BETWEEN AND AMONG GOVERNMENT INSTITUTIONS	44
RECORD OF MORTGAGE AND LEASE	44
TRANSFER OF LAND OWNERSHIP ON DEFAULT OF MORTGAGE	45
LEASE OF GOVERNMENT LAND AND GOVERNMENT RESERVED FORESTS LAND	45
GRANTING KIDU LAND	46
GRANTING REHABILITATION LAND	46
ACQUISITION AND SUBSTITUTION OF REGISTERED LAND	47
ALLOTING GOVERNMENT LAND AND GOVERNMENT RESERVED FORESTS LAND	48
APPLICATION FOR LEASE OF LAND FOR COMMERCIAL AGRICULTURE FARMS	50
CHAPTER 9: ANNULMENT OF LAND OWNERSHIP	50
DECLARING TSATONG LAND	50
NON-OCCUPATION AND USE OF KIDU AND REHABILITATION LAND	51
NON-UTILIZATION OF REGISTERED LAND	52
REGULARIZING STATUS OF OMITTED LAND	52
NON-PAYMENT OF LAND TAX	52

WILFUL SURRENDER OF REGISTERED LAND	53
DISPOSING EXCESS LANDHOLDING	53
UNLAWFUL LAND TRANSACTION	54
CHAPTER 10: USE OF TSAMDRO	55
DELETING TSAMDRO FROM THRAM	55
OVERLAPPING TSAMDRO RIGHTS WITH REGISTERED LAND	55
CASH COMPENSATION FOR TSAMDRO RIGHTS	56
CONFINING LEASE WITHIN DZONGKHAG	56
ELIGIBILITY TO LEASE TSAMDRO	56
TSAMDRO LEASE TO HIGHLANDERS	56
NO SUB-LEASING OF TSAMDRO	57
RIGHT TO TSALAM AND CHHULAM ON TSAMDRO	57
USING TSAMDRO AS PER MANAGEMENT PLAN	57
PROHIBITION TO USE TSAMDRO FOR OTHER PURPOSES	58
ANNULMENT OF LEASE	59
NO TRANSACTION OF TSAMDRO	59
MAINTAINING TSAMDRO RECORDS	59
CHAPTER 11: USE OF SOKSHING	60
DELETING SOKSHING FROM THRAM	60
ELIGIBILITY TO LEASE SOKSHING	60
LEASE PERIOD OF SOKSHING	60
NO TRANSACTION OF SOKSHING	61
NO SUB-LEASING OF SOKSHING	61
USING SOKSHING AS PER MANAGEMENT PLAN	61
PROHIBITION TO USE SOKSHING FOR OTHER PURPOSE	62

ANNULMENT OF LEASE	62
MAINTAINING SOKSHING RECORDS	63
CHAPTER 12: EASEMENT	63
WATER CHANNEL AND EMBANKMENTS	63
CUSTOMARY RIGHT OF WAY	63
RIGHT OF ACCESS TO PRIVATE LAND	63
RIGHT OF PASSAGE	64
RESTRICTION ON ACTIVITIES HARMING ADJOINING LAND	64
LAYING OF SERVICE FACILITIES	65
DAMAGE TO LAND CAUSED BY ARTIFICIAL DRAINAGE	66
RIGHT OF WAY UPON PARTITION OR PARTIAL TRANSFER OF A PLOT	66
RIGHT OF PASSAGE OVER UNENCLOSED LAND	66
RESTRICTIONS ON THE OWNER OF DOMINANT LAND	66
RESTRICTIONS ON THE OWNER OF SERVIENT LAND	66
USE AND PRESERVATION OF EASEMENT	67
RIGHT OF SERVIENT LANDOWNER TO REMOVE EASEMENT TO ANOTHER PART	67
TRANSFERRING EASEMENT	67
RIGHT TO EASEMENT UPON DIVISION OF SERVIENT LAND	68
RIGHT TO EASEMENT UPON DIVISION OF DOMINANT LAND	68
RIGHT TO EXERCISE EASEMENT BY JOINT OWNERS	68
EXTINGUISHMENT OF EASEMENT THROUGH DESTRUCTION	68

EXTINGUISHMENT OF EASEMENT BY NON-USAGE	69
SUSPENSION OF EASEMENT	69
RELIEF FROM EASEMENT UPON COMPENSATION	69
RIGHT TO USE ROADS ON GOVERNMENT LAND OR GOVERNMENT RESERVED FORESTS LAND	69
CHAPTER 13: OFFENCES AND PENALTIES	70
GENERAL LIABILITY	70
OFFENCE OF FELONY	70
OFFENCE OF MISDEMEANOUR	70
PETTY MISDEMEANOUR	72
VIOLATION	72
CHAPTER 14: MISCELLANEOUS	73
COMPENSATION ON CROPS DAMAGED BY CATTLE	73
DECLARING THROMDE, INDUSTRIAL AND PROTECTED AGRICULTURE AREAS	74
INTERCHANGEABILITY AND USE OF LAND CATEGORIES WITHIN DECLARED AREAS	74
TAKING OVER REGISTERED LAND FOLLOWING DECLARATION OF AREAS	75
LEASING GOVERNMENT LAND AND GOVERNMENT RESERVED FORESTS LAND	75
TAX ON REGISTERED LAND	76
APPLYING STANDARD MEASUREMENT UNIT	76
CHARGING OF SERVICE FEES	76
PROMULGATING RULES AND REGULATIONS	77
AMENDMENT	77
AUTHORITATIVE TEXT	77
DEFINITIONS	77

PREAMBLE

Whereas, legislative reforms initiated from the Golden Throne have resulted in enactment and amendment of many laws for the benefit of the people of Bhutan, the Land Act of Bhutan shall stand testimony to the continued commitment and diligence of the Druk Gyalpo in his pursuit to promote the well-being of the Bhutanese people.

Whereas, this Act is envisaged to manage, regulate and administer the ownership and use of land for socio-economic development and environmental well-being of the country through efficient and effective land administration, security of land tenure, equal opportunity to land, facilitation of operation of land market, effective use of land resources and conservation of the ecosystem.

Be it enacted by the 87th session of the National Assembly of the Kingdom of Bhutan on the 12th day of the 5th Month of the Female Fire Pig Year corresponding to the 27th day of June 2007.

CHAPTER 1 PRELIMINARY

Title, extent and commencement

- 1 This Act shall:
- a) Be called “The Land Act of Bhutan, 2007”;
 - b) Come into force on the day of the month of the Female Fire Pig Year coinciding with day , 2007.
 - c) Extend to the whole of the Kingdom of Bhutan.

Repeal and saving

- 2 This Act shall supersede the Land Act, 1979, except provisions pertaining to water channel and embankments and compensation on the crop damaged by cattle, and, any provisions of any law, by-law, rules or regulations that are inconsistent with this Act.

CHAPTER 2 ORGANIZATION OF LAND ADMINISTRATION

Establishing National Land Commission

- 3 The Government shall establish a National Land Commission, hereafter referred to as Commission in this Act, which shall be an independent authority and the highest decision-making body, and shall exercise the jurisdiction and powers and discharge the functions conferred or imposed by or under this Act.

Members of National Land Commission

- 4 The Commission shall have the following membership:
- a) The Gyalpoi Zimpon.
 - b) The Secretary, Ministry of Agriculture.
 - c) The Secretary, Ministry of Works and Human Settlements.
 - d) The Secretary, Ministry of Finance
 - e) The Secretary, Ministry of Trade and Industry
 - f) The Secretary, Ministry of Home and Cultural Affairs.
 - g) One representative from the agency responsible for international boundary.
 - h) One representative from Thromde Tshogdu.
 - i) One representative from private sector.
 - j) Surveyor General, Commission Secretariat, as member secretary.
 - k) One representative from the National Environment Commission.
- 5 The senior most Government Secretary in the Commission shall be the Chairperson of the Commission.

Functions of National Land Commission

- 6 The Commission shall have the following functions:
- a) Laying down the policies, programmes, regulations and guidelines in accordance with the provisions of this Act for implementation by the National Land Commission Secretariat.

- b) Acquisition of registered land and its allotment to Government institutions and Gerab Dratshang.
- c) Allotment of substitute land to the Thram holder whose land was acquired.
- d) Approve cash compensation for the land acquired.
- e) Allotment of the Government land or Government Reserved Forests land to Government institutions and Gerab Dratshang.
- f) Recommend to the Government appropriate tax measures to prevent speculation and concentration of land holdings.
- g) Coordinate with stakeholders on identification and demarcation, and preparation of a detailed report on Thromde, industrial and protected agricultural areas.
- h) Submission of recommendation for declaration of Thromde, industrial, and protected agricultural areas to the Government.
- i) Develop format to apply for rehabilitation land.
- j) Assessment and submission of petition for rehabilitation land to His Majesty the King.
- k) Approving exchange of rural registered land with Government Reserved Forests land.
- l) Institute Dzongkhag and Thromde Land Acquisition and Allotment Committees.
- m) May appoint any sub-committee to assist in carrying out any work of the Commission and submit to it the report on the result thereof.

- n) Where relevant, require any agencies to provide their services in case a specific technical input is deemed necessary.
- 7 The Commission may, through a written order, delegate any of its functions and powers under this Act to the Commission Secretariat.

Office procedure of National Land Commission

- 8 The office procedure of Commission shall be:
- a) The members of the Commission shall be ex-officio members.
 - b) In the event of death, resignation, transfer or removal from the office, the person appointed in his place shall replace such a member.
 - c) At a meeting of the Commission, the presence of two third of the total number of members shall constitute a quorum.
 - d) Decisions may be taken by majority of the quorum.
 - e) The Chairman may invite representatives from other organizations as and when necessary.
 - f) The Commission may adopt additional rules of procedure for functioning of their Office.

Establishing National Land Commission Secretariat

9 The Commission shall be supported by a National Land Commission Secretariat, hereafter referred to as Commission Secretariat in this Act, that shall be responsible for implementing the policies, programmes, regulations and guidelines issued by the Commission and for administering the provisions of this Act. The Commission Secretariat shall be the parent organization for all the agencies responsible for land registration and cadastral survey in the Kingdom.

Functions of National Land Commission Secretariat

10 The Commission Secretariat shall have the following functions:

- a) Be responsible for custody, compilation and maintenance of Chhazhag Sathram.
- b) Shall conduct land cadastre and be the technical agency on cadastral technology in the country.
- c) Shall implement the provisions of this Act and to effect changes in the Chhazhag Sathram in accordance with the provisions of this Act.
- d) Shall be the national agency to coordinate, with other Government agencies where necessary, to monitor the restrictions in this Act.
- e) Shall be responsible to constantly update and improve the mode of cadastral survey, land registration systems and land administration procedures under the purview of this Act.

- f) Shall formulate and execute strategies and plans within the programmes issued by the Commission.
 - g) Facilitate the Local Authority in carrying out their functions according to the provisions of this Act.
 - h) Either on its own or in coordination with relevant agencies, where necessary, shall prescribe formats and rules pursuant to this Act and amend them as and when deemed necessary.
- 11 The Commission Secretariat shall carry out such other responsibilities as may be assigned by the Commission.
- 12 The Commission Secretariat shall, in collaboration with the Local Authority, establish or upgrade cadastre and land registration offices at Gewog, Dzongkhag and Thromde.
- 13 The Commission Secretariat may, in writing, delegate specific powers to the Local Authority in so far as the security and the authenticity of its operation are not compromised.
- 14 The Local Authority may adopt by-laws and rules of procedure for the functioning of their offices subject to the provisions of this Act.
- 15 The Government shall ensure to provide adequate human and financial resources to these offices to implement the provisions of this Act.

CHAPTER 3

CHHAZHAG SATHRAM

Chhagzhag Sathram as national land records

16 Chhagzhag Sathram, hereafter referred to as Thram, shall be the sole authoritative document that shall record and establish the legitimacy of title to land of a person in the country.

Contents of Thram

17 The Thram shall contain:

- a) Identification of the land:
 - 1. Thram number.
 - 2. Map sheet number of the cadastral map.
 - 3. Plot number of the land on the cadastral map.
 - 4. Coordinates of boundary points.
 - 5. Name of the land.
 - 6. Type of land category.
 - 7. Total area of the land.
- b) Identification of the landowner:
 - 1. Name of the landowner.
 - 2. Unique household number.
 - 3. Citizenship identity number.

4. Permanent address of the landowner; if a corporation, name of the corporation, certification of incorporation and its principal address; and if civil society organization, name of the organization, certification of organization, and its principal address.
- c) Other information:
1. Remarks about a land if the land is on mortgage or lease, and/or if it is Kidu or rehabilitation land along with its allotment year.
 2. Individual share of land for land under joint ownership, if specified.
 3. Name of the individual person for a land under individual ownership.

Land categories for registration in Thram

- 18 The land categories recorded in Thram pursuant to the Land Act, 1979, shall be annulled and replaced hereafter under any of the land categories prescribed in Section 19 of this Act, subject to the provisions of this Act.
- 19 The land owned by different persons shall be categorized and registered in the Thram under one or more of the following land categories:
- a) Chhuzhing.

- b) Kamzhing.
- c) Cash crops land used for
 - 1) Apples
 - 2) Oranges
 - 3) Cardamom,
 - 4) Any other cash crops.
- d) Residential land.
- e) Industrial land.
- f) Commercial land.
- g) Recreational land.
- h) Institutional land.
- i) Any other category of land designated by the Commission from time to time.

Certification on land categories

20 The registration of land categories in the Thram shall be based on the following certification of land use.

- a) Certification on the land used as agricultural land from the Local Authority.
- b) House number as evidence of the rural land used as residential area from the Local Authority.

- c) Licenses issued by the Ministry of Trade and Industry to establish and operate industrial, commercial and recreational ventures on rural land.
- d) Permits for residential, industrial, commercial and recreational land in accordance with the Thromde development plan from Thromde.
- e) Approval letter from the Ministry of Agriculture on conversion of Chhuzhing to other uses.
- f) Certification from the Ministry of Agriculture to establish commercial agriculture farms.
- g) Approval letter on acquisition of private registered land from the Commission.
- h) Approval letter on allotment of the Government land or Government Reserved Forests land from the Commission.
- i) Specification of land category in the Kasho granting land.
- j) Any other Government order issued by the Government under specific laws.

Registration of land in Thram

21 Any land owned by a person shall be registered in the Thram in the administrative jurisdiction of the Gewog and Dzongkhag or Thromde wherein it is located.

Owning more than one Thram

- 22 A person may own more than one Thram. Such a person shall be entitled to a separate Thram for the land belonging to him.

Issue of Lag Thram

- 23 The Commission Secretariat or its authorized agency shall issue Lag Thram to the Thram holder as copy and evidence of his land in the Thram. Copies of the cadastral map of his land shall be attached to the Lag Thram.
- 24 For the land of a family, only one Lag Thram shall be issued in the name of the Thram holder. In case of the land under joint ownership other than family land, all the co-owners may be issued with Lag Thram indicating the share of each co-owner, if applicable.
- 25 Lag Thram shall indicate whether a registered land is Kidu or rehabilitation land.

Verification of Lag Thram

- 26 The validity and currency of Lag Thram at any point in time shall be verified from the Thram.

Authority to register land or effect change in Thram

- 27 The Commission Secretariat shall register the land of a person in the Thram or make any changes in the Thram in accordance with the provisions of this Act.

Report of discrepancy

28 A landowner, the Local Authority or the authorized agency of the Commission Secretariat may report any errors or illegal records in the Thram or cadastral maps to the Commission Secretariat.

Amendment or issue of new Thram

29 The Commission Secretariat shall effect the changes in the Thram and/or issue new Thram within 30 working days on the land conveyances prescribed in this Act after the receipt of relevant documents from the Local Authority and the Commission.

30 The Commission Secretariat shall return the land conveyance documents that are incomplete or inconsistent with the provisions of this Act to the parties concerned through the Local Authority within 30 days of receipt of such documents providing details of the missing requirements or inconsistency in writing.

Cadastral survey on registered land

31 Cadastral surveys shall be conducted on registered land based on the national geodetic reference datum.

32 The Commission Secretariat shall adopt a systematic approach to resurvey the whole country employing the most recent technology and processes to enhance the efficiency of the system and the quality of the cadastral data. In doing so, the boundaries as represented in the existing analogue cadastral maps shall be the basis for the resurvey.

- 33 The new survey shall record the coordinates of critical points along the land parcel boundaries. The Commission Secretariat shall affect minor realignments in the boundary in order to minimize the number of points that need to be recorded. However, the area shall remain the same.
- 34 The Commission Secretariat or its authorized agency shall be the sole agency to maintain the coordinates of registered land in cadastral records or to peg the boundary markers in the ground.
- 35 The coordinates recorded with the Commission Secretariat or boundary markers pegged in the ground along the boundary of a land parcel shall serve to determine the boundary and the area of a registered land in the event of any discrepancy.
- 36 The coordinates shall be recorded and boundary markers shall be pegged with the written concurrence and in the presence of the landowners or any authorized persons in his behalf.
- 37 The area, extent, location, and boundary of all registered lands shall be spatially depicted on a cadastral map. A cadastral map shall contain the name of Geog and Dzongkhag or Thromde, sheet number, plot number of land, boundary of land, coordinates at selected points along the boundary, area and scale, easements, and any other features as necessary.

38 The original cadastral maps shall be protected and maintained in the archives of the Commission Secretariat and they shall not be taken out of the premises of the archives except in accordance with the written order of the court of law. However, copies of the cadastral maps shall be made available to the Local Authority and other Government agencies.

Preservation of survey monuments

39 For the purpose of cadastral survey, the Commission Secretariat may erect survey monuments and boundary markers on a land after serving appropriate notice to the landowners.

40 Only the authorized persons shall have the right to destroy, alter, or remove any survey monuments or boundary markers upon prior written permission from the Commission Secretariat.

41 In the event a person intends to destroy, alter, or remove any survey monuments or boundary markers on his land, a written application shall be submitted to the Commission Secretariat. The Commission Secretariat shall respond within 60 days of the receipt of application. If he does not receive any response within the stipulated time, it shall be deemed that the permission has been granted.

42 In case of the refusal of permission, he may appeal to the Commission whose decision shall be final and binding.

Correction of name of landowner

- 43 In the event a Thram holder petitions to the Local Authority that his name is incorrectly spelt or his full name is not recorded in his Thram, the Local Authority shall based on the Citizenship Identity Card endorse the correction of name to the Commission Secretariat who shall make the necessary changes in the Thram.
- 44 Upon demise of the Thram holder of a family, the Thram shall be transferred to the name of one of the members identified by the family within 360 of his demise as certified by the Local Authority. In the event of non-compliance, such a person shall be liable in accordance with Section 300(h) of this Act and the Local Authority shall instruct the family to register the land in the name of one of the surviving members identified by the family.

Correction of errors in Thram and cadastral records

- 45 If there is any discrepancy between the Thram, cadastral records and/or the area occupied on land, the Commission Secretariat shall resolve it in accordance with Sections 46 to 50 of this Act.
- 46 The Surveyor General of the Commission Secretariat shall institute an Investigation Committee consisting of representatives from the Commission Secretariat, the concerned Local Authority where the land is located, and a minimum of three senior citizens from the locality appointed by the Local Authority.

- 47 The Local Authority, in writing, shall notify the landowners concerned of the discrepancy and the investigation.
- 48 The Investigation Committee shall submit its report to the Commission Secretariat within 60 days of receiving the order of investigation and also distribute the report to the affected landowners.
- 49 In the event any landowners contest the area of the land determined by the Investigation Committee, they shall file an objection to the Investigation Committee within a period of 30 days of distribution of the report. Under such circumstances the Investigation Committee may carry further investigations and shall submit its final report within next 30 days after submission of any objection. If no objection is filed within the stipulated period, the decision by the Investigation Committee shall be deemed binding.
- 50 Based on the findings of the Investigation Committee, the Thram and cadastral map shall be corrected as follows:
- a) If the registered area in the Thram is less than the area occupied on the ground and the boundary coordinates or boundary markers confirm the area occupied on the ground, the landowner shall be entitled to the excess area if he so desires.

- b) If the registered area in the Thram is more than the area occupied on the ground and the boundary coordinates or boundary markers confirm the area occupied on the ground, the Commission Secretariat shall correct the Thram according to the actual area on the ground.
- c) If the cadastral map is wrong, the actual area on the ground as defined by the boundary coordinates and/or boundary markers shall prevail and it shall be rectified in accordance to Sections 50(a) and (b) of this Act.
- d) The landowner shall pay tax to the Government on the excess area in case of Section 50(a) of this Act and the Government shall refund the excess tax paid by the landowner in case of Section 50(b) of this Act, by keeping the year during which the erroneous Thram was issued as the base year.

51 In the event a case cannot be resolved by the Commission Secretariat, the matter shall be submitted before the Court of Competent Jurisdiction. Based on the final judgment of the Court of Competent Jurisdiction, the Commission Secretariat shall amend the Thram and cadastral records.

Access to data in Thram

- 52 Only the Commission Secretariat, authorized agency and the authorized officials at Gewog and Dzongkhag or Thromde shall have access to the central data system of Thram and cadastral records.
- 53 The Thram holder or his authorized person shall have access to the information on his land and cadastral maps maintained by the Commission Secretariat.
- 54 Except those information restricted by the Government, the Commission Secretariat or its authorized person shall allow the viewing of data in Thram and cadastral records maintained by the Commission Secretariat or its authorized agency upon a written request from:
- a) Thram holder or his authorized person for his land.
 - b) A person for a specified landholding in a Thram.
- 55 The Commission Secretariat shall allow the Government agencies to access and use the land records for public purposes.

Settlement of land disputes

- 56 The parties to a dispute may settle land disputes amicably before taking any legal recourse.

57 In the event, amicable settlement is not possible, the matter shall be submitted before the Court. According to the verdict, the Commission Secretariat shall carry out necessary action.

CHAPTER 4

ENTITLEMENT AND GRANTING OF LAND

Entitlement to own land

58 The juristic persons who are entitled to own land in the Kingdom of Bhutan are:

- a) Institution of Monarchy.
- b) Family.
- c) Individual person.
- d) Government institutions including corporations belonging to the Government.
- e) Gerab Dratshang (Gedeon and Rabdeys).
- f) Civil society organizations, corporations, community for social and religious purposes, and religious institutions recognized by the laws of the Kingdom of Bhutan.

59 The juristic persons in Section 58 of this Act shall fall under one or more of the following broad categories of registered landowners:

- a) Crown Property,
- b) Individual person.
- c) Family land,
- d) Joint owners.
- e) Government institutions.
- f) Gerab Dratshang.
- g) Religious institutions
- h) Civil society organizations.
- i) Corporations.
- j) Community for social and religious purposes.

60 An individual person may own land either in his name and/or in the name of joint ownership other than family land, the total of which shall not exceed the land ceiling according to Sections 64 to 66.

Ownership of land upon registration in Thram

61 The ownership of land shall be conferred to its owner upon registration of such land in the Thram in his name in accordance with the provisions of this Act.

62 No Government land or Government Reserved Forests land shall be transferred to private ownership except otherwise provided by the Constitution and as detailed under this Act.

Land may be owned anywhere in the Kingdom

63 A juristic person under Section 58 of this Act may own land in more than one Gewog or Thromde within the Kingdom of Bhutan.

Land ceiling

64 The land ceiling for a family and, those organizations and entities not listed in Section 68 of this Act shall be 25 acres consisting of one or more land categories as specified in Section 19 of this Act.

65 A person may own land either in his name and/or in the name of joint ownership other than family land. A person shall belong to a family.

66 Land belonging to a person either in his name and/or in the name of joint ownership shall be included with the family land under the land ceiling.

67 Based on the contents of Thram in Section 17 of this Act, and using other relevant data as may be deemed necessary, the Commission Secretariat shall develop a monitoring system and implement it in collaboration with the Local Authority to enforce the land ceiling in Section 64 of this Act. Within 360 days from the date of enforcement of this Act, a person shall dispose his excess land to ensure compliance of the provisions on land ceiling under this Act.

Exemption from land ceiling

- 68 The land ceiling in Section 64 of this Act shall not apply to the land registered in the name of:
- a) Members of Royal Family.
 - b) Crown Property.
 - c) Government institutions.
 - d) Gerab Dratshang.
 - e) Community owning land for social and religious purposes.
 - f) Industrial land beyond 25 acres ceiling, provided that the industrial land exceeding 25 acres ceiling is registered in the name of a Corporation.

Mineral resources on registered land

- 69 Any mineral resources found in any registered land shall belong to the State and shall be governed by the prevailing Mines and Minerals Management Act or any other law that shall govern their use and management.
- 70 In the event the mineral resources are extracted and the process of extraction lessens or deteriorates the land utility, the Government shall acquire the land and provide compensation as provided in this Act.

Granting Kidu and rehabilitation land

- 71 Granting of Kidu and rehabilitation land shall be the royal prerogative of the Druk Gyalpo.

CHAPTER 5

REGISTRATION OF LAND IN CHHAZHAG SATHRAM

Land of individual person

72 The land owned by an individual person shall be registered in the Thram in his name.

Land of family

73 The land of a family shall be registered in the Thram in the name of the head of the family.

Land under joint ownership

74 The land under joint ownership shall be registered in the Thram in the names of all its co-owners.

Land of corporations

75 The land of a corporation shall be registered, in the name of a corporation registered under the prevailing Company's Act of the Kingdom of Bhutan, or, in the name of the body corporate established under the relevant law.

Land of religious institutions

76 The land of religious institutions shall be registered in the name of the traditional lineage or reincarnate and not in the name of an individual person.

Land of civil society organizations

- 77 The land belonging to a civil society organization shall be registered in the name of the civil society organization registered under the prevailing Civil Society Act of Bhutan and not in the name of any individual person.
- 78 The land provided by the Government to any civil society organization before the enactment of this Act shall be retained on lease.

Land of Government institutions and Gerab Dratshang

- 79 The land belonging to Government institutions and Gerab Dratshang shall be registered in the Thram in the name of respective user establishments of the Government institutions or Gerab Dratshang and not in the name of any individual person.

Land on default of mortgage

- 80 In the event of default of a mortgage on land, the Commission Secretariat shall, in accordance with the order of the court, transfer the ownership of land in the name of a person entitled to the land.

Substitute land

- 81 A substitute land shall be registered in the name of the person to whom the land is allotted.

Kidu and rehabilitation land

- 82 A Kidu or rehabilitation land shall be registered in the Thram in the name of the person or persons to whom the land was granted.

Prohibition on registration of land in the name of minor

83 Land shall not be registered in the name of a minor who is below 18 years.

Land of minors

84 Notwithstanding Section 83 of this Act, and except otherwise provided in a will, in the absence of any surviving adult member, the land of a deceased Thram holder shall be registered in the Thram in the name a minor below the age of 18 years upon recommendation from the Local Authority.

85 The land registered in the Thram in the name of the minor under Section 84 of this Act shall be under the custody of a legal guardian identified by the Local Authority.

CHAPTER 6 RIGHTS AND OBLIGATIONS OF LANDOWNERS

Right to registered land

86 The land registered in the Thram in the name of an individual person shall belong to him.

87 All the members own the land registered in the Thram of a family. The Inheritance Act shall govern the entitlement to any land by the member of a family.

88 With exception of the land registered in the Thram in the name of a family and a community for social and religious purposes, the share of land under joint ownership shall be considered equal among the joint owners unless otherwise specified in the Thram.

Interchangeability and use of land

89 Except for Chhuzhing and the land categories falling within the Thromde, industrial, and protected agricultural areas declared in accordance with Section 302 of this Act, a landowner may interchange and use his other registered land categories to any other categories in accordance with 165 of this Act.

90 The land for commercial agriculture farms shall be used only for commercial agriculture purposes as per the project proposal approved by the Ministry of Agriculture.

Conversion of Chhuzhing to other uses

91 In case of conversion of Chhuzhing to other land categories for purposes other than residential land, such conversion may be processed in accordance to Section 166 of this Act.

Use of Chhuzhing as residential land

92 A landowner without a house and having only inherited Chhuzhing in his Thram may apply for one plot of 50 decimals in rural area for residential land from such Chhuzhing to the Local Authority in accordance with Sections 167 to 169 of this Act.

Right to transact land

- 93 Subject to the provisions of this Act, a person owning an independent Thram shall have the exclusive right to transact his land, including surrendering of land to the Government.
- 94 Subject to the provisions of this Act, a person may lease his land for the activities allowed by this Act, including share-cropping.
- 95 Upon demise of a landowner, if the closest in line of legitimate heirs cannot inherit land due to restriction on land ceiling, he may transact such land within 360 days of demise. Otherwise, the land may be inherited by the next closest legitimate heir in succession as determined by the Inheritance Act.
- 96 A piece of land registered in the Thram under joint ownership shall be transacted upon consent of all the landowners or by a co-owner to the extent of his share of land, if specified in the Thram.
- 97 Any party entering into transaction of a registered land may lawfully authorize any other person to undertake land transaction in his behalf.

- 98 The transfer of ownership of land from one Government institution to another or from one Government institution to Gerab Dratshang and vice versa, and from one organization of Gerab Dratshang to another shall be permitted.

Right to trees on registered land

- 99 The trees, either grown naturally or planted, in a registered land shall belong to the landowner.
- 100 The Thromde Act or any other law that shall govern the use and management of land shall govern the management of trees in Thromde.
- 101 Transportation and commercial use of timber from these trees shall be subject to the Forest and Nature Conservation Act or any other law that shall govern the transportation and commercial use of such timber in future.

Right to trees on boundary of registered land

- 102 The landowner who planted a tree on the boundary of land shall enjoy its ownership and he shall be responsible to ensure that the other landowner is not affected by such a tree. In the event the tree adversely affects the adjacent landowner, the Local Authority, upon receiving a written complaint, shall serve a written notice to the tree owner to remove the harm caused to other landowner within 30 days of issuance of such notice.
- 103 The fruits from such trees falling naturally upon the adjoining land shall belong to the owner of such land.

Right to fruits and timber from naturally grown trees on boundary

104 The fruits and timber from a naturally grown tree on the boundary of two plots of registered land shall be shared between the two landowners

Right to trees on Kidu, rehabilitation and substitute land

105 Any trees on Kidu, rehabilitation and substitute land at the time of allotment shall belong to the Government unless otherwise specified in the Kasho or allotment order. Such trees shall be disposed by the Ministry if in the Government Reserved Forests land and the Municipal authority in the Government land, and hand over the land free of encumbrances within 60 days after registration of the land in the Thram of the person to whom the land is allotted.

Ownership of immovable properties on transacted land

106 Unless otherwise specified in the transaction deed, the immovable properties on the transacted land shall be deemed as belonging to the new landowner.

Right to omitted land

107 If a plot of land registered previously in the Thram is omitted during the compilation of the new Thram, the landowner may apply for its reinstatement to the Commission Secretariat through the Local Authority within 5 years from the date of issue of the new Thram.

108 Upon reinstatement, the Thram holder shall pay tax to the Government with arrears on such land for the number of years the land was omitted.

Verification of land boundary

- 109 Prior to establishment of any structure that is likely to affect the boundary of a piece of land, the landowner planning to establish such structure may verify and ascertain the boundary of the land with the landowners of adjoining land and local land records office.
- 110 If a landowner wishes to verify or specify the coordinates and boundary markers of his land, he shall apply, in writing, to the Local Authority. The Local Authority shall then carry out the survey and peg the boundary marker on the ground.

Merging of contiguous land parcels

- 111 Two plots of registered rural land that are physically contiguous, of the same land category, and belonging to the same landowner may be merged into one plot, if the landowner so desires by applying to the Local Authority.
- 112 In case of Thromde, land pooling or any such tools may be adopted to merge or consolidate the plots.

Structures on boundary

- 113 Ditches constructed on the boundary of two plots of lands are presumed to belong to both landowners.

114 When a hedge, or a ditch which is not used as a drain, belongs to the owners of two adjoining pieces of land, each of the owners is entitled to cut down the hedge or fill up the ditch to the boundary line provided he builds a wall or erects a fence along the boundary line.

Laying of structures in one's registered land

115 A landowner shall not locate or construct a well, pond; cesspool or receptacle for refuses within 2 meters on his land from the boundary, in order to avoid any discharge or percolation of the contents into his neighbor's land.

116 However, he may lay underground water pipes or similar installations on his land at a distance of half a meter from the boundary.

Exchange of registered land with Government Reserved Forests land

117 Where necessary in the interests of the nation and/or for those landowners whose land have been destroyed by natural calamities, the Government may exchange a rural registered land with the Government Reserved Forests land.

Paying land tax

118 From the day a person acquires the ownership of land through registration in Thram, he is liable to pay land tax to the Government.

Access to registered land

- 119 Any authorized person of the Commission Secretariat or any agency of the Government shall have entry to a registered land, landed property or roads for conducting cadastral works, land survey, or for utility service facilities as deemed necessary by the Government.
- 120 Before the entry to a registered land by such a person, the Commission Secretariat or any other agency of the Government shall through the Local Authority serve an appropriate notice of entry to the landowner or any person in custody of such land.
- 121 The landowners shall allow the authorized person to enter their land and landed property subject to the notice served in accordance with Section 120 of this Act.
- 122 The Commission Secretariat or any other agency of the Government serving the notice shall require the landowner or any person from whom the entry is being sought to be present to facilitate the survey and public utility related works.
- 123 After prior consent of the landowner, if and when necessary to do so, the authorized person, shall have the authority to erect mapping stakes, dig ground, divert water bodies temporarily, sink bores, cut and trim branches of trees, and remove or do away with obstacles taking into consideration that such action shall cause the least amount of damage to the land. Where appropriate, the areas thus altered shall be restored to their original status.

- 124 The landowners shall ensure to facilitate the conduct of survey, cadastral works and public utility works on their registered land with minimum obstruction or inconvenience to the authorized person.
- 125 The Commission Secretariat or any agency of the Government concerned shall require the landowners of adjacent plots or their authorized representatives to be present and to facilitate the conduct of survey and the public utility works.

Accepting land boundary

- 126 The landowners may acknowledge and accept, by signing in the format prescribed by the Commission Secretariat for conducting cadastral survey, demarcation of land boundaries, or any changes in the existing boundary when conducting cadastral survey on their land.

Land of a Bhutanese citizen who has migrated

- 127 If a Bhutanese citizen had submitted an application on the transfer of ownership of his land to the Local Authority before his migration to another country in accordance with the provisions of this Act, such land shall be transferred in the name of the beneficiary. Otherwise, such land shall be taken over as the Government land or Government Reserved Forests land.

Encroachment on others' land

- 128 Encroachment on any state owned and private registered land shall be prohibited.

Prohibition to use community land for other purposes

129 The land registered in the Thram in the name of a community for social and religious purposes shall not be used for purposes other than social and religious purposes.

Under-utilization and under development of land

130 The Government may enforce, by an order in writing, fiscal measures or any other means to discourage under-utilization and under development of registered land.

131 The Local Authority shall be responsible to monitor and enforce the provision on under-utilization and under development of land.

Prohibited land transactions

132 The minimum parcel of land that shall be registered in a Thram is 10 decimals.

133 Those land parcels less than 10 decimals prevalent before the enactment of this Act may be retained in the Thram of the landowner or transacted only in its entirety without subdivision.

134 Except for surrender of land to the Government, the landowners shall not engage in any transaction of the land registered in the name of a community for social and religious purposes.

135 There shall be no transaction of land registered in the Thram in the name of a minor in accordance with Section 84 of this Act.

136 Except for surrender of land to the Government, the exchange of land in accordance with Section 117 of this Act, mortgage of land or land lease, a landowner shall not engage in any other transaction of:

- a) The land registered in the Thram of Government institutions.
- b) The land registered in the Thram of Gerab Dratshang

137 Except for surrender of land to the Government, exchange of land in accordance with Section 117 of this Act, mortgaging, leasing, and inheritance, the land recorded in the Thram as Kidu or rehabilitation shall not be sold within 10 years of its allotment.

138 Except for surrender of land to the Government and the exchange of land in accordance with Section 117 of this Act, the land belonging to religious institutions shall not be transacted.

139 The land provided by the Government on lease for commercial agriculture shall not be transacted in any form.

No transaction of land under the process of ownership change

140 From the day a land transaction deed has been lawfully executed and processed by the Local Authority, neither of the party shall engage in any other transaction on the same piece of land till the change of ownership in the Thram is complete. Any subsequent transactions under such circumstances shall be null and void.

In case of multiple transactions, the legally binding agreement executed with the first buyer shall be deemed valid.

Withdrawal of land transaction

- 141 If the parties to the land transaction jointly apply in writing to the Local Authority to cancel the transaction, and the ownership is not changed in the Thram, the Local Authority shall endorse the cancellation to the Commission Secretariat.

CHAPTER 7 ACQUISITION OF REGISTERED LAND

Acquisition of registered land

- 142 The Government may acquire a registered land for public interests.
- 143 The Government may provide substitute land or cash payment, or both, as compensation.
- 144 Acquisition of land shall entail a fair compensation.
- 145 Acquisition shall be in accordance to the procedure on acquisition of registered land.
- 146 Acquisition of the land occupied by religious monuments shall be avoided.

Mode of compensation for land acquired

- 147 The landowner shall have the discretion to opt for substitute land or cash compensation offered by the Government in case of the land acquired from rural areas.
- 148 In case of the land acquired in Thromde, the landowner shall be provided cash compensation. If the land to be acquired is the only plot owned by the landowner in the Thromde, the Government shall consider a substitute land in the same Thromde. If the value of substitute land is inadequate additional cash compensation shall be provided subject to the value of land.
- 149 Compensation shall be provided for the immovable property on the acquired land.
- 150 Upon acquisition, if the remaining land parcel is less than 10 decimals, such land both in Thromde and rural areas shall also be acquired.

Valuation of land and property

- 151 There shall be a Property Assessment and Valuation Agency established under the Ministry of Finance to value and fix the value of land and any other collateral property that may be acquired. The valuation of the land and property shall consider the total registered area, registered land category, its current use, location in relation to accessibility to vehicular road, immovable property, local market value, and other elements such as scenic beauty, cultural and historical factors, where applicable.

152 The Property Assessment and Valuation Agency shall also be responsible to fix the non-development fiscal measures specified in Section 130 of this Act.

Approving and revising compensation rate

153 The compensation rate fixed by the Property Assessment and Valuation Agency and any subsequent revisions shall be subject to approval of the Government.

154 The Property Assessment and Valuation Agency shall revise the compensation rate after every three years.

Location of substitute land

155 The location of substitute land to be allotted in rural areas shall be in the order of preference of same village, Gewog, and Dzongkhag.

No choice for substitute land

156 The landowner shall have no choice over the location of substitute land provided by the Government.

Non-enclosure of Government land or Government Reserved Forests land

157 A land allotted as substitute shall not enclose any patch of Government land or Government Reserved Forests land inside its boundary.

Taking over acquired land

158 The land under acquisition shall be taken over only after registering the substitute land in the name of the affected landowner or the cash compensation has been made to the landowner.

CHAPTER 8 PROCEDURES ON LAND CONVEYANCE

Transaction of private registered land

- 159 After entering into a land transaction involving inheritance, sale/purchase, exchange of private registered land with another private registered land, and donation/gifting, the parties involved shall submit their land transaction application to the Local Authority, for the transfer of ownership.
- 160 The application shall include a lawfully executed transaction deed and other documents prescribed by the Commission Secretariat in the rules for land transactions that are specified in Section 159 of this Act.
- 161 If the transaction is deemed lawful in accordance to this Act, the Local Authority shall post a notice of the transaction for public viewing, which shall remain effective for 30 days. If no objection is raised from any quarter within the period;
- a) The Gewog shall forward the case to Dzongkhag. The Dzongdag shall validate the case in accordance with Section 162 of this Act and endorse it to the Commission Secretariat for effecting changes in the Thram, or

- b) The Municipal authority shall validate the case as per Section 162 of this Act and endorse it to the Commission Secretariat for effecting changes in the Thram.
- 162 In the event of any objection, the Local Authority shall evaluate the legitimacy of the objection, and if warranted, the application shall be returned to the parties involved within 15 days of objection explaining the grounds of its rejection.
- 163 If there is no objection, the Local Authority concerned shall conduct cadastral survey in the field, if division of the land under transaction is involved. The cadastral survey shall be completed and the transaction case shall be submitted to the Commission Secretariat within 60 days after public viewing for changes or issuance of new Thram.
- 164 If no division of the land under transaction is involved, the Local Authority shall submit the transaction case to the Commission Secretariat within one week after completion of the public viewing for effecting changes or issuing new Thram.

Conversion of land categories

- 165 In the event a landowner desires to change his land categories other than Chhuzhing and those outside the Thromde, industrial, and protected agricultural areas declared in accordance with Section 302 of this Act, he shall submit an application in a format prescribed by the Commission Secretariat to the Local Authority for approval.

166 In case of conversion of Chhuzhing to other land categories for purposes other than residential land, and those outside the Thromde, industrial and protected agricultural areas declared in accordance with Section 302 of this Act, the landowner shall submit a written application to the Local Authority. The application shall be supported by a filled up format prescribed by the Ministry of Agriculture.

The Local Authority shall verify the proposed conversion and either reject, in which circumstance the application shall be returned to the applicant, or submit the application with its recommendation to the Ministry of Agriculture.

The Ministry of Agriculture shall assess the feasibility based on the technical criteria including availability of water, soil and environmental conditions, and respond to the landowner and the agency acquiring it within 120 days from the date of the receipt of the application from the Local Authority.

If the conversion is approved, the Ministry of Agriculture shall intimate the Commission Secretariat to effect the changes in the Thram. The Commission Secretariat shall effect the changes in the Thram and accordingly inform the landowner and the agency acquiring it through the Local Authority.

Conversion of Chhuzhing as residential land

167 A landowner with only inherited Chhuzhing in his Thram may apply for 50 decimals in rural areas from such Chhuzhing to the Local Authority in a format prescribed by the Ministry of Agriculture. The application shall state the location and name of land, total area, and the intended year of conversion.

- 168 The Local Authority shall survey and demarcate the area proposed as residential land and may approve the change in land category if the proposition is not contrary to any other law for the time being in force. In the event of approval, the Local Authority shall endorse the matter to the Commission Secretariat for effecting the change in the Thram and to the Ministry of Agriculture for monitoring.
- 169 If the remaining plot of the same Chhuzhing is less than 10 decimals, it may be included for conversion as residential land.
- 170 The Gup, through the Dzongkhag, shall be responsible to report to the Commission Secretariat if such residential land is not used for house construction within 3 years.
- 171 In the event a house is not constructed within 3 years, the residential land shall be reverted to Chhuzhing by the Commission Secretariat based on the non-compliance report received in accordance to Section 170 of this Act.

Exchange of registered land with Government Reserved Forests land

- 172 The Ministry shall prescribe a format for the exchange of private registered land with the Government Reserved Forests land.
- 173 The applications on the exchange of land shall be submitted to the Local Authority.
- 174 The Local Authority shall verify and submit the applications to the Ministry.
- 175 The Ministry shall submit the proposed exchange and its views to the Commission.

- 176 The Commission may either reject with proper justification or approve the proposed exchange.
- 177 The Commission shall forward the approved exchanges to the Commission Secretariat for issuing new Thram and to the Ministry for releasing the Government Reserved Forests land.

Transfer of land between and among Government institutions

- 178 The Commission Secretariat shall effect the change of ownership of land:
- a) From one Government institution to another Government institution upon receiving application from the parties involved through the Local Authority.
 - b) Between Government institutions and Gerab Dratshang upon receiving application from the parties involved through the Local Authority.
 - c) From one agency of Gerab Dratshang to another agency of Gerab Dratshang upon receiving application from Dratshang Lhentshog through the Local Authority.
- 179 The applications for transfer of land ownership shall be supported by a duly filled up format prescribed by the Commission Secretariat and the endorsement by the Local Authority.

Record of mortgage and lease

- 180 The party mortgaging or leasing land shall submit a copy of their lawfully executed mortgage or lease deed to the Local Authority.

181 The Local Authority shall submit the copy of the mortgage or lease deed to the Commission Secretariat who shall record the mortgage or lease in the Thram.

Transfer of land ownership on default of mortgage

182 The application for transfer of ownership of land, along with the order of the court, shall be submitted to the Local Authority.

183 The Local Authority shall submit the application, along with the order of court to the Commission Secretariat who will transfer the ownership of land in the name of the new landowner.

Lease of Government land and Government Reserved Forests land

184 The Ministry shall prescribe the rules on leasing any Government Reserved Forests land.

185 The application for leasing the Government Reserved Forests land shall be submitted to the Local Authority who will submit it to the Ministry for approval.

186 The Local Authority shall prescribe the rules on leasing the Government land as well as approve leasing of the Government land subject to confirmation by the Commission.

187 The records on leased land shall be maintained by:

a) The Ministry for the Government Reserved Forests land.

b) The Municipal authority for the Government land.

188 The Ministry and Municipal authority shall submit the lease records to the Commission Secretariat who shall maintain lease records of the Government land and Government Reserved Forests land.

Granting Kidu land

189 As per the Constitution of Bhutan, petitions for Kidu land shall be submitted to His Majesty the King. Kidu land shall be registered according to the provisions of the Kasha.

Granting rehabilitation land

190 Applications for rehabilitation land shall be submitted to the Commission through the Local Authority in the format prescribed by the Commission.

191 The Commission shall assess the applications and identify the potential Dzongkhags wherein land to the applicants could be allotted.

192 The Commission shall instruct the Dzongkhag Land Acquisition and Allotment Committee, hereafter referred to as Dzongkhag Committee, of the potential Dzongkhags to conduct a feasibility study and to submit its recommendations.

193 The Commission shall, based on the feasibility study, submit its findings to the Druk Gyalpo.

- 194 The beneficiary shall produce the Kasho granting rehabilitation land in original to the Commission Secretariat for registration.
- 195 The Local Authority shall release the rehabilitation land to its owner after completing its registration in the Thram.

Acquisition and substitution of registered land

- 196 The applications from Government institutions and Gerab Dratshang on acquisition of private registered land shall be submitted to the Dzongkhag Committee or Thromde Land Acquisition and Allotment Committee, hereafter referred to as Thromde Committee. The format on acquisition of land and allotment of substitute land shall be prescribed by the Commission.
- 197 The Dzongkhag Committee or Thromde Committee shall submit the applications and its views including the nature of compensation as a preliminary proposal to the Commission.
- 198 Based on the application received in accordance with Section 197 of this Act, the Commission shall either reject it with proper justification or instruct the Dzongkhag Committee or Thromde Committee to conduct feasibility study and to submit a detailed report. The report shall include other relevant documents required by the Forest and Nature Conservation Act and other laws.

- 199 The Dzongkhag Committee or Thromde Committee shall submit its detailed report and its recommendations to the Commission. Simultaneously, the Local Authority shall serve a written notice to the landowner informing him of the Government's intent to acquire his land at least 120 days prior to the acquisition.
- 200 The Commission may either approve or reject the compensation proposed by the Dzongkhag Committee or Thromde Committee with proper justification. If the proposal is not approved, the Commission Secretariat shall inform the Dzongkhag Committee or Thromde Committee with reasons.
- 201 If substitute land or cash payment is approved, the Commission Secretariat shall make the necessary changes in the Thram.
- 202 The Commission Secretariat shall at the same time convey the approval of land substitute or cash payment to the Dzongkhag Committee or Thromde Committee and to release the substitute land to the new landowner or to effect cash payment and take over the acquired land by the agency concerned upon registration of substitute land.

Allotting Government land and Government Reserved Forests land

- 203 Applications from the Government Institutions and Gerab Dratshang requesting allotment of the Government land or Government Reserved Forests land shall be submitted to the Dzongkhag Committee or Thromde Committee. The format on the allotment of land shall be prescribed by the Commission.

- 204 The Dzongkhag Committee or Thromde Committee shall submit the applications with justification on allotment and their views on its feasibility as a preliminary proposal to the Commission.
- 205 Based on the application received in accordance with Section 204 of this Act, the Commission shall either reject it with proper justification or instruct the Dzongkhag Committee or Thromde Committee to conduct field survey and to submit a detailed field report, including clearances required under applicable laws.
- 206 The Dzongkhag Committee or Thromde Committee shall submit its detailed field report and its recommendations to the Commission.
- 207 In case of approval, the Commission Secretariat shall register the land in Thram.
- 208 The Commission Secretariat shall at the same time convey the approval of Commission to the Dzongkhag Committee or Thromde Committee.
- 209 If the Commission does not accord approval, the Commission Secretariat shall inform the Dzongkhag Committee or Thromde Committee with justification.

Application for lease of land for commercial agriculture farms

- 210 The application for land to establish commercial agriculture farms shall be submitted to the Local Authority in a prescriptive format issued by the Ministry of Agriculture. The format shall, among others, include project proposal that shall specify the type and level of production, source of fund, location of the farm, source of land, and arrangement for the farm products.
- 211 If approved, the Ministry of Agriculture shall submit the application along with the documents to the Commission Secretariat to record the land on lease in the name of the farm and inform the Local Authority to release and handover the land to the entrepreneur establishing the farm.

CHAPTER 9 ANNULMENT OF LAND OWNERSHIP

Declaring Tsatong land

- 212 If a Thram holder dies without leaving any legitimate heir and written will, the land registered in his name shall be declared as Tsatong land after serving a public notice of 90 days by the Local Authority upon the apparent occurrence of Tsatong land.

- 213 The Local Authority shall report the Tsatong land to the Commission Secretariat within 60 days after the expiry of the above 90 days notice for the annulment of its Thram.
- 214 After annulment of the Thram, the Commission Secretariat shall inform the agencies concerned and hand over the Tsatong land.

Non-occupation and use of Kidu and rehabilitation land

- 215 If the Kidu or rehabilitation land is not occupied and used by the landowner within 3 years from the date of allotment, it shall be deemed that he has the intention to abandon his rights on the land.
- 216 The Local Authority shall be responsible to monitor and report to the Commission Secretariat as and when such situation arises in its jurisdiction.
- 217 The Local Authority shall issue a written notice to the landowner stating the requirement to occupy and use the land.
- 218 If after 180 days of serving the notice, the landowner does not occupy or use the land, the Commission Secretariat upon recommendation from the Local Authority shall submit a report to the Office of the Gyalpoi Zimpon. In the event the ownership of land is annulled, the land shall be taken over as the Government land or Government Reserved Forests land.

Non-utilization of registered land

- 219 If the land of Government institutions, Gerab Dratshang and the land allotted in Thromde for specific purposes are not used by the landowner within 3 consecutive years from the date of allotment, it shall be deemed that the landowner has the intention to abandon their rights to the land.
- 220 The Local Authority shall be responsible to monitor and report to the Commission Secretariat as and when such situation arises in its jurisdiction.
- 221 Upon receipt of such report, the Commission Secretariat shall issue a written notice to the landowner stating the requirement to use the land.
- 222 If after 180 days of serving the notice, the landowner continues to leave the land vacant, the registration of such land shall be annulled from the Thram and the Thram holder shall be informed accordingly. The land shall be taken over as the Government land or Government Reserved Forests land.

Regularizing status of omitted land

- 223 The omitted land shall become Government land or Government Reserved Forests land if it is not registered in accordance with Section 107 of this Act.

Non-payment of land tax

- 224 If a land tax is not paid for 3 consecutive years, the Local Authority shall serve a notice to the landowner at the end of the third year to pay the tax with arrears.

- 225 In addition to Section 224 of this Act, the Government may impose fines for non-payment of tax.
- 226 In the event of non-compliance to the notice served under Sections 224 of this Act, the Commission Secretariat shall annul the Thram of such land and the Thram holder shall be informed accordingly. The land shall be taken over as the Government land or Government Reserved Forests land.

Wilful surrender of registered land

- 227 If a landowner desires to surrender his registered land to the Government, he shall submit a written application to the Local Authority along with endorsement from joint owners, if any.
- 228 The Local Authority shall verify the application and endorse the deletion of the Thram to the Commission Secretariat. The land shall be taken as the Government land or Government Reserved Forests land.

Disposing excess landholding

- 229 The Commission Secretariat shall delete the registration of any excess land beyond land ceiling from the Thram if it is not disposed within the prescribed duration of 360 days as provided under Section 95 of this Act.
- 230 After deletion of the registration from the Thram, the Commission Secretariat shall intimate the concerned agencies to take over the land as the Government land or Government Reserved Forests land.

231 The landowner may select the excess land to be deleted in a manner that no Government land or Government Reserved Forests land is enclosed inside the boundary of the selected land, and he shall be compensated for the surrendered area with cash payment fixed by the Government for land acquisition under Section 151 of this Act.

Unlawful land transaction

232 Any registered landholding in a Thram shall be annulled without any compensation under the following circumstances and the Commission Secretariat shall intimate the agencies concerned to take over the land under their custody as Government land or Government Reserved Forests land:

- a) If Kidu or rehabilitation land is sold within 10 years of its allotment.
- b) If a land in the name of the community for social and religious purposes is sold, gifted, or donated.

233 If the land belonging to Government institutions, Gerab Dratshang and religious institutions is sold, exchanged, gifted or donated contrary to the provisions of this Act, the Secretariat shall cause to reinstate the land back to the Commission Government institution or the religious institution concerned.

234 If the land of a commercial agriculture farm is not used for its intended purpose or is left idle for more than 2 years, or is converted to any other uses, the Ministry of Agriculture shall cause to take over such land as the Government Reserved Forests land.

If the land registered in the name of a private corporation is not used for its intended purpose or is left idle for upto 3 years, or is converted to any other uses, the Ministry of Agriculture shall cause to take over such land as the Government Reserved Forests land or the Thromde concerned shall take over such land as Government land.

CHAPTER 10 USE OF TSAMDRO

Deleting Tsamdro from Thram

235 All Tsamdro rights maintained in the Thram prior to enactment of this Act shall be deleted from the Thram. Upon deletion, the Tsamdro land shall be reverted and maintained as the Government land in Thromde or the Government Reserved Forests land in rural areas.

236 The reverted Tsamdro in rural areas shall be converted to leasehold and those in Thromde shall be maintained as the Government land.

Overlapping Tsamdro rights with registered land

237 In the event a plot of land has both Tsamdro right and permanent ownership right, the latter shall prevail only if it is covered by the cadastral map and is lawfully registered in the Thram.

Cash compensation for Tsamdro rights

238 The Government shall pay cash compensation to the owners of Tsamdro under Land Act 1979 for surrendering their Tsamdro rights based on the area registered in the Thram.

Confining lease within Dzongkhag

239 After 10 years from the date of enactment of this Act, Tsamdro shall be leased only to a lessee who is a resident of the Dzongkhag where the Tsamdro is situated.

Eligibility to lease Tsamdro

240 An individual household or community owning livestock shall be eligible to lease the reverted Tsamdro which have been converted to Government Reserved Forests land for use as Tsamdro.

241 While leasing Tsamdro, preference shall be given to the previous rights holders and community.

242 Except as provided in Section 243 of this Act, Tsamdro shall be leased based on herd size.

Tsamdro lease to Highlanders

243 Highlanders who are directly dependent on Tsamdro may retain their Tsamdro rights under lease irrespective of possession of livestock and their herd size.

244 The lease for Highlanders shall be for a period not less than 30 years with the possibility of extension.

No sub-leasing of Tsamdro

245 With the exception of the Tsamdro leased to Highlanders, there shall be no sub-leasing of Tsamdro.

Right to Tsalam and Chhulam on Tsamdro

246 The individuals or communities who have the customary Tsalam and Chhulam rights on any leased Tsamdro shall continue to enjoy such rights.

Using Tsamdro as per management plan

247 Grazing and pasture development on Tsamdro shall be permitted based on a Tsamdro management plan. The Department of Forests, Department of Livestock, and the lessee shall be responsible to prepare Tsamdro management plan. The following shall be the basic profile of a Tsamdro management plan.

a) Identification of the land:

1. Name and location.
2. Total area of the land.
3. Map showing the location and boundary

b) Identification of the lessee:

1. Name of the lessee.

2. Citizenship identity number.
 3. Permanent address.
 4. Resident working members.
 5. Total number of animals.
- c) Management:
1. List of activities to improve the productivity of Tsamdro.
 2. Location of a dwelling house for herders and shelters for livestock during lease period.
 3. Measures to protect the improved Tsamdro, e.g. fencing.
 4. Time schedule to implement the planned activities.
 5. Any assistance and monitoring from the Departments of Livestock and Forest and Local Authority.
 6. Terms and conditions on deviation from the plan.

Prohibition to use Tsamdro for other purposes

248 The Tsamdro on lease shall not be used for any purposes other than those prescribed in the Tsamdro management plan.

249 No permanent infrastructure shall be established on the Tsamdro on lease. Unless renewed, upon expiry of lease the lessee shall not continue with any activities on Tsamdro or no infrastructure shall remain on the land.

Annulment of lease

250 If a Highlander abandons his place of domicile, the Tsamdro lease shall be annulled.

251 Except as provided in Section 243 of this Act, the Tsamdro lease shall not subsist if a leaseholder no longer owns livestock. The Tsamdro lease shall be revoked after 180 days of disowning livestock.

252 If Tsamdro is sub-leased by a lessee other than Highlander, the lease shall be annulled.

No transaction of Tsamdro

253 Except as provided for Highlanders in Section 245 of this Act, there shall be no transaction of Tsamdro, which is on lease. The lease may however, within the stipulated lease period, be inherited.

Maintaining Tsamdro records

254 The Ministry shall maintain the records of Tsamdro on lease.

CHAPTER 11 USE OF SOKSHING

Deleting Sokshing from Thram

255 All Sokshing rights maintained in the Thram prior to enactment of this Act shall be deleted from the Thram. Upon deletion, the Sokshing shall be maintained as the Government land in Thromde or the Government Reserved Forests land in rural areas.

256 The reverted Sokshing in rural areas may be converted to leasehold at individual and community level. However, the land categorized as Sokshing where there are no trees shall not be leased.

Eligibility to lease Sokshing

257 Only those who have agricultural land shall be eligible to lease Sokshing on individual as well as on community basis.

258 Preference shall be given to the previous rights holders while leasing Sokshing.

Lease period of Sokshing

259 The lease shall be for a period not less than 30 years with the possibility of extension.

No transaction of Sokshing

260 There shall be no transaction of Sokshing. The lease may, however, be inherited within the stipulated lease term.

No sub-leasing of Sokshing

261 There shall be no sub-leasing of Sokshing.

Using Sokshing as per management plan

262 The vegetative and land improvement of Sokshing shall be allowed according to Sokshing management plan. The Department of Forest, Department of Agriculture, and the lessee shall prepare such management plan. The following shall be the basic profile of a Sokshing management plan.

a) Identification of the land:

1. Name and location.
2. Total area of the land.
3. Map showing the location and boundary

b) Identification of the lessee:

1. Name of the lessee.
2. Citizenship identity number.
3. Permanent address.

4. Resident working members.
5. Types of land category.
6. Total agriculture area.

c) Management:

1. List of activities to improve the productivity of Sokshing.
2. Time schedule to implement the planned activities.
3. Any assistance and monitoring from the Departments of Livestock and Forest and Local Authority.
4. Terms and conditions on deviation from the plan.

Prohibition to use Sokshing for other purpose

263 Sokshing land shall not be used for any purpose other than the collection of leaf litter allowed in accordance with the Sokshing management plan.

264 No permanent infrastructure shall be established on Sokshing land.

Annulment of lease

265 A lease shall be revoked under the following circumstances:

- a) If the Sokshing is sub-leased in contravention to Section 261 of this Act.
- b) If Sokshing is not managed as per the management plan prescribed according to Section 262 of this Act.

- c) If the lessee no longer owns agricultural land for which he was using the Sokshing.

Maintaining Sokshing records

266 The Ministry shall maintain the records of Sokshing on lease.

CHAPTER 12 EASEMENT

Water channel and embankments

267 The provisions of the Land Act, 1979, on water channel and embankments shall prevail till Water Act is enacted.

Customary right of way

268 A right of way established over a land through local customs by uninterrupted use for a period of more than 5 years shall be respected and the landowner shall not object to its use.

Right of access to private land

269 The landowner shall allow any authorized person or persons to enter his land to carry out alterations, adjustment or improvement of service utility works and for purposes connected therewith which are reasonably necessary for the benefit of larger community or environment after reasonable notice.

270 A landowner may, after reasonable notice, make use of the adjoining land of another landowner so far as necessary for the purpose of erection, or repairing of fence, wall or building on or near his boundary line, but he may not enter the dwelling house of the neighbor without the consent of the latter. The neighbor may claim reasonable compensation if any damage is caused.

Right of passage

271 The landowner, whose land is surrounded by the land belonging to other landowners and if he has no access to a public way or his other land, may pass through the surrounding land to reach the public way or his land.

272 The place and the manner in creating such passage must be so chosen as to meet the needs of the landowner and at the same time cause as little damage as possible to the surrounding land.

273 The person entitled to passage must pay compensation for any damage suffered by the landowner when establishing such passage.

Restriction on activities harming adjoining land

274 A landowner may not excavate or overload his land in such manner as to endanger the stability of the soil of an adjoining piece of land of his neighbor unless adequate measures are provided for preventing damage to such land.

Laying of service facilities

- 275 The landowner of a piece of land is bound, subject to reasonable compensation being paid to him, to allow the laying through his land of water pipes or irrigation channel, drainage pipes, telecommunication structures, electricity poles and sub-stations or other similar installations by a Government agency or for the use of the adjoining or neighboring land if, without making use of his land, they could not be laid or could be laid only at an excessive cost. The landowner may require that his interests be taken into consideration.
- 276 In exceptional cases where the installations are to be above ground, such landowner may require that a reasonable portion of his land, over which such installations are to be laid, be bought from him at a price, which will cover the value of the land and compensation for any damage arising from the sale.
- 277 Where the circumstances are changed, he may require that the installations be removed to such different part of his land as may be suitable to his interest. The relevant agency shall be responsible to remove the installations.
- 278 The owner of the facilities established under Sections 275 and 276 of this Act shall be responsible to ensure that no damage is caused to the landowner by way of negligence of the management of the facilities.

Damage to land caused by artificial drainage

279 If the lower land is damaged by artificial drainage constructed on the higher land and if before water flowed naturally onto the lower land, the owner of the lower land may, without prejudice to any claim for compensation, require the owner of higher land to construct the drainage right through the lower land to a public drain. The cost shall be borne by the owner of the upper land.

Right of way upon partition or partial transfer of a plot

280 As a consequence of sub-division of land, if a plot is left without access to a public way, the owner of such plot may claim a right of way over the land, which has been so partitioned or partially transferred.

Right of passage over unenclosed land

281 A person may lead his cattle into or through another person's unenclosed land for grazing and watering provided that it is not under cultivation.

Restrictions on the owner of dominant land

282 The owner of the dominant land shall not engage in any act on the servient land other than the right of easement.

Restrictions on the owner of servient land

283 The owner of the servient land must refrain from any act, which may diminish the utility of the easement or make it less convenient.

Use and preservation of easement

284 The owner of the dominant land is entitled, at his own expense to do all that is necessary to preserve and make use of the easement. In doing so, it must be ensured that minimum damage is caused to the servient land. However, if the owner of the servient land benefits by the work, he must bear a share of the expenses in proportion to the benefits, which he receives.

Right of servient landowner to remove easement to another part

285 Where easement affects a part of the servient land, the owner of that land may, by showing that the change would be for his benefit and by undertaking to bear the cost of it, require that the easement be removed to another part of his land, provided this would not be less convenient to the owner of the dominant land.

Transferring easement

286 Easement follows the dominant land when the latter is disposed of or made subject to other rights.

Right to easement upon division of servient land

287 In case of a division of the servient land, the easement continues to be a burden on each part. However, if the easement is not exercised and from the nature of the case could not be exercised over any subdivided plot, the owner of such plot may demand to be relieved from the easement.

Right to easement upon division of dominant land

288 In case of the division of the dominant land, the easement continues to exist for the benefit of each part. However, if the easement is not, and from the nature of the case could not be, exercised for the benefit of any particular part, the owner of the servient land may demand to be relieved from the easement with respect to such part.

Right to exercise easement by joint owners

289 Easement acquired or exercised by one of the joint owners of the dominant land is deemed as acquired or exercised by all joint-owners.

Extinguishment of easement through destruction

290 Easement shall extinguish by the total destruction of the servient or the dominant land.

Extinguishment of easement by non-usage

291 Easement shall extinguish by non-usage for 5 consecutive years at any point in time.

Suspension of easement

292 Easement shall extinguish if it has ceased to benefit the dominant land, but it shall revive if the condition of things become such that the easement can be enjoyed again, provided that the period of prescription specified in the foregoing section has not elapsed.

Relief from easement upon compensation

293 Where the easement is still of some benefit to the dominant land, the owner of the servient land may, by payment of compensation, obtain a total or partial relief from the easement.

Right to use roads on Government land or Government Reserved Forests land

294 No person or persons shall have the exclusive use right to a road constructed by them through the Government land or Government Reserved Forests land. The new users may contribute to the maintenance of such road.

CHAPTER 13

OFFENCES AND PENALTIES

General liability

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

296 Any addition, deletion or alteration in the cadastral records and Thram if not deemed erroneous shall be unlawful.

Offence of felony

297 A person committing any of the following acts shall be guilty of an offence of felony of third degree and shall be liable to be sentenced in accordance with Bhutan Penal Code:

- a) Unlawful addition, deletion or alteration in the cadastral records and Thram affecting the registered land area or land ownership.
- b) Issuing Thram or registration of land in the name of any individual or entity other than those entitled in accordance with this Act.

Offence of misdemeanour

298 A person committing any of the following acts shall be guilty of an offence of misdemeanor and shall be liable to be sentenced in accordance with Bhutan Penal Code:

- a) Owning land exceeding the land ceiling in contravention of the provisions of this Act.
- b) Engaging in transaction of land in the name of community for social and religious purposes and other jointly owned land in contravention of this Act.
- c) Conversion and use of Chhuzhing in contravention of this Act.
- d) Transferring ownership of land belonging to Government, Gerab Dratshang, and religious institutions contrary to Sections 136(a) and 136(b) and 138 of this Act.
- e) Selling of Kidu or rehabilitation land in contravention of Section 137 of this Act.
- f) Engaging in transaction of the land occupied by commercial agriculture farms in contravention of Section 139 of this Act.
- g) Engaging in any fresh transaction of the land, which is under the process of transaction in contravention of Sections 140 and 141 of this Act.
- h) Not complying with the provisions on the land for commercial agriculture.
- i) Subleasing and using Tsamdro and Sokshing including construction of permanent structures in contravention of the provisions of this Act.

Petty misdemeanour

299 Any 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) Destroying, damaging, altering or removing survey monuments in contravention of Sections 40, 41 and 42 of this Act.
- b) Removing the pegs grounded in the land to demarcate land boundary coordinates.
- c) Sub-dividing land contrary to Section 132 and 133 of this Act.
- d) Failure of the Local Authority and/or Commission Secretariat or any individuals responsible to carry out their functions under this Act.
- e) Encroachment on a state owned and private registered land.

Violation

300 A person committing any of the following acts shall be guilty of an offence of violation and shall be liable to be sentenced in accordance with Bhutan Penal Code:

- a) Not reporting any mortgage or leasehold on private registered land for recording in Thram.
- b) Not recording the prescribed contents in Thram in accordance with the provisions of this Act.
- c) Not reporting the change of any land category.
- d) Providing access to Thram data in contravention of this Act.
- e) Failure to provide access to a registered land to authorized persons.
- f) Failure to attend by the landowner or his authorized individual after serving notice on access to his land.
- g) Infringement of rights established under the Chapter on Easement.
- h) Not registering land in accordance with section 44 of this Act.

CHAPTER 14 MISCELLANEOUS

Compensation on crops damaged by cattle

301 The provisions of the Land Act, 1979, on compensation on the crop damaged by cattle shall prevail till other alternatives are enforced by the Government.

Declaring Thromde, industrial and protected agriculture areas

302 Based on the recommendation of the Commission, the Government may declare any area in the country as Thromde including buffer zone, industrial, and protected agricultural areas as well as de-regularize Thromde to rural areas.

303 The declaration of Thromde, industrial, and protected agricultural areas shall aim at the best use of land by:

- a) Assessing present and future needs by evaluating the land's capability to supply them;
- b) Identifying and resolving conflicts between competing uses, between the needs of individuals and those of community, and between the needs of the present generations and those of future generations; and
- c) Seeking sustainable options and choosing those that bring about the desired economic, social and environmental well-being of the citizens of Bhutan.

Interchangeability and use of land categories within declared areas

304 In accordance with Section 302 of this Act, if a particular area has been approved as Thromde, industrial or protected agricultural areas, the land categories specified in Section 19 may be interchanged, subject to the relevant laws that shall govern their use and management, notwithstanding any other provisions to the contrary in this Act.

Taking over registered land following declaration of areas

305 While implementing Section 302 of this Act, if the Government must take over any private registered land, compensation shall be provided in accordance with the provisions on the compensation for land acquisition provided under this Act.

Leasing Government land and Government Reserved Forests land

306 The Government land or Government Reserved Forests land may be leased to a juristic person according to Section 308 of this Act. Application to lease Government land or Government Reserved Forests land for any purpose shall be governed as per the existing rules and regulations. There shall be no ceiling for the Government land or Government Reserved Forests land on lease for the purposes of economic activity.

307 Under no circumstances shall a land on lease from the Government land or Government Reserved Forests land be converted to ownership right.

308 The duration of lease of the Government land or Government Reserved Forests land shall not exceed 30 years and any terms or conditions in the lease deed to the contrary shall have no effect.

309 A lease fee shall be levied at the rate fixed and revised by the Government after every five years notwithstanding any provision in the lease deed to the contrary.

310 The Government may upon expiry of lease renew the lease of the Government land or Government Reserved Forest land including Tsamdro and Sokshing.

Tax on registered land

311 Except for the land maintained as Crown Properties, all the registered lands are subject to land tax from the day they are registered in the Thram.

312 The Government shall levy and enforce a progressive land tax that shall be proportionate to the size of the landholding, its value, and that shall differentiate between the rural and other land categories.

313 The land tax and its revision proposed by the Government from time to time shall be subject to the approval of the Parliament.

Applying standard measurement unit

314 The Commission Secretariat shall apply the unit for land measurement standardized by the Government.

Charging of service fees

315 Where relevant, service fees and fines shall be levied by implementing agencies for administering the provisions of this Act. The Commission Secretariat shall periodically revise and publish the service fee.

Promulgating rules and regulations

316 The Commission shall, where necessary for the implementation of this Act, either on its own or in coordination with relevant agencies, make rules from time to time to carry out the provisions of this Act. The rules shall be subject to the endorsement of the Government.

Amendment

317 Any amendment of this Act shall be made by the Parliament.

Authoritative text

318 In any instance of a difference in meaning between the Dzongkha and the English texts of this Act, Dzongkha text shall prevail.

Definitions

319 In this Act, unless the context requires otherwise, the term:

- 1) Acquisition of land means taking over of a registered land by the Government for public interests after providing compensation in accordance with this Act.
- 2) Allotment of land means allotment of the Government land or Government Reserved Forests land for use by the Government institutions and Gerab Dratshang, providing substitute land upon acquisition, and granting of Kidu and rehabilitation land.
- 3) Authorized agency means the office authorized by the Commission Secretariat to conduct any of its functions.

- 4) Authorized person means a person appointed by the Commission Secretariat to conduct any of its functions or a person responsible for utility service facilities.
- 5) Cadastral map means a map depicting all legal land objects based on a survey of the boundaries of land parcel.
- 6) Cadastral record means the coordinates of a land recorded through cadastral survey done in accordance with this Act and cadastral maps depicting the spatial attributes specified in this Act for a land parcel maintained by the Commission Secretariat or its authorized agency.
- 7) Chazhag Sathram means the sole authoritative document that shall record and establish the legitimacy of title to land of a juristic person in the country maintained under the custody of National Land Commission.
- 8) Chhuzhing means irrigated and/or bench terraced agricultural land for paddy based cropping systems.
- 9) Civil society organization means any organization registered as a civil society organization under the Civil Society Organization Act of Bhutan.

- 10) Commercial agriculture farm means the crop and livestock production for sale by employing modern production management and techniques established by an entrepreneur under the terms and conditions certified by the Ministry of Agriculture.
- 11) Commercial land means land used for licensed economic activities including hotels, shops, sawmills, carpentry, automobiles service centers and other business activities primarily deemed as utility service facilities.
- 12) Community for social and religious purposes means indigenous communities in whose name landholdings are traditionally registered for the use of social and religious purposes to preserve and sustain their tradition and culture.
- 13) Compensation means either substitute land or cash payment or both provided to the landowner upon acquisition of his land.
- 14) Coordinates are values which specify the location of any points on the surface of the earth with respect to a reference system.
- 15) Corporation means a body corporate incorporated under the Company's Act of the Kingdom of Bhutan and any corporate entity established under specific laws.

- 16) Crown Property land means the land declared as Crown Property held by the Monarch for the Institution of Monarchy according to the relevant law and registered in the Thram as Crown Property Land.
- 17) Dominant land means any land entitled with a right of easement over a servient land.
- 18) Dominant owner means the landowner or any person who has custody over a dominant land.
- 19) Easement means an area of land, being a part of a plot or unit, over which a party other than the registered landowner, has the right of use for a specific purpose, but does not imply ownership of the land.
- 20) Family land means land belonging to family members registered in the name of the head of the family.
- 21) Family means one or more individuals who are registered as a family under one unique household number issued and maintained by the civil registration and census authority of the Government.
- 22) Geodetic reference datum means a globally fixed point of reference for surveying and cadastral mapping.

- 23) Gerab (Geduen and Rabdey) Dratshang means Zhung Dratshang, Rabdeys, and other religious institutions belonging to Gerab Dratshang, and under the purview of Dratshang Lhentshog.
- 24) Government institutions include various Government agencies under the three branches of the Government, armed force, police, constitutional bodies, corporations owned by the Government, and any other Government agencies.
- 25) Government land means any land and water body within the territory of a Thromde, the ownership of which is not vested in any person and is under the custody of the Municipal Authority.
- 26) Government means the Royal Government of Bhutan.
- 27) Government Reserved Forests land means any land and water body outside a Thromde, the ownership of which is not vested in any person and is under the custody of the Ministry.
- 28) He refers to both masculine and feminine gender.
- 29) Highlanders means high altitude herders whose livelihoods are directly and traditionally dependent on Tsamdro.
- 30) Immovable properties mean any standing crops, trees, houses or any permanent structure developed on the transacted land.

- 31) Individual land means land registered in the name of an individual person.
- 32) Industrial land means registered land for construction of industrial establishments, industrial areas, export processing and other concentrated production areas, and the land where mineral exploration, exploitation and processing are located. These activities are subject to any law governing industries and mining.
- 33) Institutional land means the registered land for office complexes, research stations, academic, medical, and religious establishments.
- 34) Joint ownership means collective ownership over a piece of land by more than one person and does not include family land.
- 35) Juristic person means persons above the age of 18 years; family; the Institution of Monarchy; Government institutions; Gerab Dratshang; and civil society organizations, corporations and religious institutions of Bhutan.
- 36) Kamzhing means agricultural land other than Chhuzhing and orchard. Agriculture land shall mean Kamzhing, Chhuzhing and cash crops land.

- 37) Kasho means an edict from His Majesty the King granting Kidu or rehabilitation land.
- 38) Kidu land means the land granted by His Majesty the King through Kasho as Kidu.
- 39) Lag Thram means a certificate of the registration of land in the Chhazhag Sathram.
- 40) Land for social and religious purposes means the land registered in the name of a community for its religious purposes such as Lhasey and Tshechu.
- 41) Land means the soil including building or other structure erected on the land, and all vegetation, but does not include any minerals.
- 42) Land records means Thram, cadastral and any other records pertaining to land maintained by the Commission.
- 43) Land transaction means the change of title of ownership to a land by selling/purchasing of land; inheriting of land; exchanging of land; gifting/donating of land; surrendering land to the Government; order of Court of Competent Jurisdiction; and default of mortgage subject to the applicable laws.

- 44) Lease means a state of tenure that confers only a right of use of land for defined period of time and does not imply the ownership of land.
- 45) Local Authority means committees constituted in the Gewog, Dungkhag, Thromde and Dzongkhag. The executive head of the Gewog, Dungkhag, Thromde and Dzonkhag shall be the ex-officio chairperson of the Committees along with 6 other members from organizations related to land and include 2 officials from the elected bodies.
- 46) Minerals means any substance occurring naturally in or on the earth and having formed by or subject to geological process and which can be obtained from the earth by digging, drilling, dredging, quarrying or by other mining operation.
- 47) Ministry means the Ministry responsible for the Government Reserved Forests land.
- 48) Person means a citizen of Bhutan.
- 49) Protected agriculture area means any land in the country declared by the Government based on the recommendation of the National Land Commission to manage, protect and sustain agriculture production.

- 50) Public interest means the needs arising out of socio-economic development and environmental concerns including cultural, environmental, heritage, protection of land degradation, recreational, social and strategic interests as determined by the Government.
- 51) Recreational land means registered land used for licensed recreational purposes such as sport complexes, eco-tourism complexes, botanical gardens, and private parks other than those declared as protected areas.
- 52) Rehabilitation land means the land granted by His Majesty the King through Kasho to marginal farmers, farmers whose land has been destroyed by natural calamities, farmers living in ecological-risk prone areas, and landless households.
- 53) Religious institutions mean private religious institutions established by a religious reincarnate or heir to a religious lineage in Bhutan and recognized as a religious institution by the relevant laws of the Kingdom of Bhutan.
- 54) Residential land means a registered land for dwelling house both in Thromde and rural areas.
- 55) Royal Family means the reigning and past monarchs and their queens and royal children of reigning and past monarchs.

- 56) Servient land means any land that is subject to easement as provided under this Act.
- 57) Servient owner means the owner or any person who has custody of a servient land.
- 58) Sokshing means a plot of the Government Reserved Forest land leased out for leaf litter production and collection.
- 59) Substitute land means compensation provided to the landowner in the form of land for his registered land acquired by the Government.
- 60) Survey means the surveying and recording of boundaries or calculation of the area of land in order to determine the location of boundaries and any other spatial attributes including identification of land parcel.
- 61) Survey monuments and boundary markers means physical structures on the surface or embedded under the surface of a land whether registered or not, affixed by the Commission to establish reference points for cadastral survey and mapping.
- 62) Thromde means an area under the jurisdiction of a Municipal authority.
- 63) Tsamdrol means the Government Reserved Forests land leased out for grazing and improved pasture management.
- 64) Tsatong means a registered land, which has come under dispossession due to absence of legal inheritor.