

Preamble

Bearing in mind the Government's vision to establish Bhutan as a well-known hub for education with a strong presence of high quality Educational Institutions;

Acknowledging the importance of an attractive environment on economic, social and educational grounds for high quality Educational Institutions to be present in Bhutan;

Convinced that the presence of high quality Educational Institutions in Bhutan would improve the overall quality of the Bhutanese education system; and

Recognizing that the establishment of the City would spur the economic development of Bhutan through direct and indirect benefits;

Parliament of the Kingdom of Bhutan do hereby enact the Bhutan Education City Act 2011 on the __Day of __Month of the Iron Female Rabbit Year of the Bhutanese Calendar corresponding to the ___Day of ___2011 at its ___Session as follows:

CHAPTER 1 PRELIMINARY

Title, commencement and extent

1. This Act shall:
 - (1) Be called the Bhutan Education City Act 2011;
 - (2) Come into force on the ... day ofmonth of the Iron Female Rabbit Year of the Bhutanese Calendar corresponding to the ...day of ..., 2011; and
 - (3) Extend to the whole of Bhutan.

Application

2. This Act shall apply to the establishment, development, promotion, operation, management and maintenance of the City and such other persons associated with the City in whatever capacity as provided for in this Act and the Agreement.

3. This Act shall not apply to:
- (1) The Royal University except to its Knowledge Centres it may establish in the City; and
 - (2) Other universities, schools, colleges or institutes whether public or private except to their Knowledge Centres which they may establish in the City.

Repeal

4. The amendment of this Act by way of addition, variation or repeal shall be effected by a simple majority of the respective houses or by a vote of no less than two-thirds of the total members of parliament present and voting on a motion submitted by one-third of the members of either house.

Supersession

5. The provisions of this Act shall have overriding effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

Rules of construction

6. In this Act, the singular includes the plural and vice versa.

CHAPTER 2

EDUCATION CITY BOARD

Establishment of the Board

7. This Act establishes a board in the name of Education City Board.
8. The Board is a body corporate with perpetual succession and a common seal.
9. In exercising the powers vested in it by this Act the Board is an autonomous body.

10. The Board may:
- (1) Enter into contracts;
 - (2) Acquire, hold and dispose of property, whether movable or immovable and to pledge and mortgage the same;
 - (3) Exercise all powers specifically granted by this Act to it, and such incidental powers, as may be necessary to carry out the powers so granted; and
 - (4) Sue and be sued in its own name.
11. The head office of the Board shall be at Thimphu or at such other place as the Board may determine from time to time.

Constitution of the Board

12. The ex-officio members of the Board are the following:
- (1) Minister, Ministry of Works and Human Settlement;
 - (2) Vice-chancellor, Royal University;
 - (3) Secretary, Ministry of Home and Cultural Affairs;
 - (4) Secretary, Ministry of Economic Affairs;
 - (5) Secretary, Ministry of Finance;
 - (6) Secretary, Ministry of Education;
 - (7) Secretary, Ministry of Labour and Human Resources;
 - (8) Secretary, GNH Commission;
 - (9) Dzongdag of the Dzongkhag where the Site is located;
 - (10) Chief Executive Officer, DHI Infra Ltd.;
 - (11) One private sector representative appointed by the Bhutan Chamber of Commerce and Industry; and
 - (12) Chief Executive Officer of the Secretariat.

13. The Cabinet may appoint such other permanent or temporary members from time to time as it may deem fit.

Service of notice and other documents

14. Any notice or other document may be served on the Board by delivery or by prepaid registered post to the Secretariat.

Procedures

15. The presence of one third of the members constitutes a quorum for a meeting of the Board.
16. The Board shall adopt its rules of procedure by a simple majority of its members provided that the rules are in accordance with this Act.

Secretariat

17. There shall be a secretariat of the Board to assist the Board in discharging its functions, to provide analysis and recommendations to the Board as and when required and to perform such other functions, and exercise such powers as may, from time to time be delegated by the Board.
18. The Board shall supervise the Secretariat and shall issue directions in relation to the duties, functions and powers of the Secretariat.
19. The Secretariat shall be headed by a chief executive officer appointed by the Board who shall be the ex officio member secretary to the Board and the Secretariat shall comprise of such number of staff as the Board may deem fit.
20. The salary, tenure, discipline and other conditions of service of the Chief Executive Officer shall be as determined by the Government.
21. The salary, tenure, discipline and other conditions of service of the staff of the Secretariat shall be as determined by the Board.
22. The operating expenses of the Secretariat, including equipment, shall be drawn from the appropriate fund and the surplus fund, if any, shall be deposited into the revenue account of the Ministry of Finance.

CHAPTER 3
FUNCTIONS AND POWERS OF THE BOARD

General functions of the Board

23. The Board shall:

- (1) Be the apex Government body in Bhutan for establishment, development, operation, promotion, maintenance and management of the City through a public-private partnership (PPP) or other models including Government undertaking, joint venture or a full private participation;
- (2) Ensure that the Policies and Laws applicable to the City are suited to efficiently meet the goals of the City;
- (3) Assume all rights and duties under the Agreement on behalf of the Government including provision of ancillary infrastructure to the Site;
- (4) Liaise with the Government, the Concessionaire, the Knowledge Centres, the Service Providers, the Students and any other Person associated with the City on issues relating to the City; and
- (5) Perform all other functions as may be required or deemed fit by the Board in the letter and spirit of this Act or which may be entrusted to it by the Cabinet from time to time.

24. In discharging its functions and exercising its powers to meet the goals of the City, the Board shall:

- (1) Ensure that the City is built and operated in accordance with the Policies of the Government especially that the City shall provide both quality education and economic development in Bhutan;
- (2) Ensure that activities pertaining to the City are fair and transparent;
- (3) Promote the City consistent with the Laws, Policies, environmental issues, Buddhist heritage and gross national happiness;

- (4) Take steps to ensure that Bhutanese nationals benefit from the City, including by securing scholarships or favourable financing terms for deserving Students;
- (5) Encourage a minimum level of employment for Bhutanese nationals;
- (6) Have due regard to the national security and public interests;
- (7) Strive to promote conditions that will enable sustainable operations and business for the Concessionaire;
- (8) Endeavour to provide reasonable security for loans given in connection with the City; and
- (9) Encourage competition in the City.

General power

25. The Board is empowered to:

- (1) Act as a nodal agency;
- (2) Supervise and monitor that the operations of the Concessionaire, Educational Institutions, Knowledge Centres, Service Providers or any other Person associated with the City are in accordance with this Act, the Agreement and all applicable Laws and Policies;
- (3) Approve plans, contracts, timelines and other matters according to the Agreement;
- (4) Grant Support to the Developer, Concessionaire, Educational Institutions, Knowledge Centres, Service Providers, Students and any other Person associated with the City;
- (5) Recommend to the Cabinet or to any Government agencies any new Laws or Policies, any amendments thereto or any limits of the scope of any applicable Laws or Policies needed or desirable to achieve the goals of the City;
- (6) To discharge the municipal functions in the City directly or at its discretion through the Concessionaire in accordance with the Agreement or later amendments thereto;

- (7) Collect the Concession Fee; and
- (8) Create and administer such funds and spend and allocate such sums as it deems fit for the purposes set forth in this Act subject to approval by the Government.

Nodal agency

26. The Board shall act as the nodal agency for all Permissions that may be required by the Concessionaire, Educational Institutions, Knowledge Centres, Service Providers and any other Person associated with the City.
27. The Secretariat shall assist the applicants in completing applications, acknowledge completed applications and by sending such applications to the Competent Authority for processing and disposal within the prescribed time frame and monitor the status of the applications.
28. In case any Competent Authority fails to process or dispose of any application within the prescribed time frame, the Board may place the application before the Cabinet for consideration and the Cabinet shall, after due consideration, reject the application or may direct the Competent Authority to grant or issue the Permission on such terms and condition as the Cabinet may direct.

Supervising functions

29. The Board shall supervise and monitor:
 - (1) The establishment, development, promotion, operation, maintenance and management of the City;
 - (2) That the Concessionaire undertakes its business in accordance with this Act and the Agreement;
 - (3) The creation, construction and operation of the Project Infrastructure and the Project Facilities;
 - (4) The quality of services in the City; and
 - (5) That all applicable Laws and Policies are being adhered to in the City.

30. The Board is empowered to call upon the Concessionaire, Educational Institutions, Knowledge Centres, Service Providers or any other Person associated with the City to furnish information, documents and particulars as may be required by the Board.
31. If the operations of the Concessionaire, Educational Institutions, Knowledge Centres, Service Providers or any other Person associated with the City are not in accordance with this Act, the Agreement or all applicable Laws and Policies the Board shall:
 - (1) Take such corrective measures mandated in this Act, in the Agreement or in such other agreements to which the Board is a party as the Board deems fit;
 - (2) Collect damages and the likes for breach of the Agreement or for breach of such other agreements to which the Board is a party; and
 - (3) Prevent with the help of law enforcement agencies and other agencies of Government any breach of applicable Laws and Policies

Functions of approval

32. The Board's power to approve plans, contracts, timelines and other matters according to the Agreement includes:
 - (1) The master plan and the layout of the City on the Site, architectural design and construction plans of the Project Infrastructure and the Project Facilities which is to be prepared by the Concessionaire; and
 - (2) The templates of all and any contracts including for leasing of premises to the Educational Institutions and Service Providers.
33. The Board may approve or reject the plans, contracts, timelines and other matters with or without conditions.

Support

34. The Board shall propose to the Government fiscal or any regulatory incentives, exemptions, subsidies or other supports to be provided by the Government in relation to the City. Such Support may include:
- (1) Exemptions from any tax, levy or likes;
 - (2) Allowing foreign direct investment up to 100%;
 - (3) Investment incentives including repatriation of full profits;
 - (4) Easy procedures for granting visas and work permits to Students, faculties, staff of the City, their families and any other Person associated with the City;
 - (5) Part or full exemption from applicable Laws and Policies; and
 - (6) Any other Support as may be deemed fit by the Board.

CHAPTER 4 DEVELOPMENT OF THE CITY

Establishment and development of the City

35. A city to be called the Bhutan Education City or any other name as recommended by the Board from time to time shall be set up in accordance with this Act to be the centre in Bhutan mainly to impart quality education and knowledge through a public private partnership (PPP) or other models including government undertaking, joint venture or a full private participation.
36. The Concessionaire shall establish, develop, promote, operate, maintain and manage the City in accordance with this Act and the Agreement.
37. The Project Work shall be carried out in accordance with the applicable Laws and Policies and shall adhere to the environmental concerns of the Government.

38. The Project Infrastructure and the Project Facilities shall be developed, operated, maintained and managed in accordance with Laws, Policies and the Agreement except for those for which international norms and standards are required to be followed for utility and technical reasons.

Designation of the Site

39. The title over the Site shall vest with the Government.

40. The Government shall be responsible for any acquisition of land for the purposes of designation or expansion or for any other purposes in relation to the City in accordance with the Laws.

41. No injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

42. Notwithstanding anything contained in the Laws or Policies:

(1) The Government shall lease the Site to the Concessionaire in accordance with the Agreement for a maximum period of 90 years; and

(2) The Concessionaire may sublease any part of the Site or any building on the Site subject to the Agreement. Such sublease may include the right to further subleasing.

The Concessionaire

43. The Developer shall be selected through a transparent and fair process in accordance with Laws and Policies.

44. The Developer shall be incorporated under the Laws, as a company solely to establish, develop, promote, operate, maintain and manage the City, which is to be called the Concessionaire.

45. The Concessionaire, under the general superintendence and control of the Board, shall:
- (1) Establish, develop, promote, operate, maintain and manage the City;
 - (2) Assume the rights and duties under the Agreement;
 - (3) Invite, select and enter into contracts with credible, reputed and quality Educational Institutions, Service Providers, and other Persons for the purposes of development, operation, maintenance and management of the City;
 - (4) Promote the City within and outside of Bhutan in accordance with Laws, Policies and the Agreement;
 - (5) Prepare construction plans and architectural design of the Project Infrastructure and the Project Facilities for review by the Board;
 - (6) Recommend to the Board granting, withdrawing or suspending any Support in relation to Persons associated with the City and advise the Board on additional or new Support;
 - (7) Collect user charges from the users of the Project Infrastructure and the Project Facilities unless otherwise agreed; and
 - (8) Perform such other functions, acts or things, which may be provided for by the Agreement or assigned or directed to it by the Board.
46. The Concessionaire shall transfer the City to the Government upon expiry or termination of the Agreement in accordance with the Agreement.

Authority Designated Area

47. The Government shall lease the Authority Designated Area to DHI Infra Ltd.
48. The Authority Designated Area shall be developed and used for purposes set out in this Act and the Agreement.

CHAPTER 5
KNOWLEDGE CENTRES AND SERVICE PROVIDERS

Educational Institutions and Knowledge Centres

49. The Concessionaire shall lease the Project Infrastructure and the Project Facilities and enter into contract only with Educational Institutions subject to their compliance with any Laws or Policies regulating establishment, accreditation, registration and licensing.
50. The Educational Institutions shall apply to the Competent Authority through the nodal agency for registration, licence and other Permissions in the manner and form prescribed by Law with all documentation and information as prescribed.
51. The Competent Authority shall, upon its satisfaction, permit or grant establishment, accreditation, registration, licence and other Permissions or convey its objections to the Educational Institutions within a reasonable time.
52. The Competent Authority shall create and apply a fast track procedure for highly reputed Educational Institutions or Academic Courses.

Academic freedom and autonomy of Knowledge Centres

53. The Government, the Board and the Concessionaire shall ensure the academic freedom and autonomy of the Knowledge Centres including curriculum independence subject only to the Laws or Policies regulating establishment, accreditation, registration and licensing.
54. Notwithstanding the generality of the foregoing, the Knowledge Centres and Service Providers may subject to this Act, Laws, Policies and the Agreement freely:
 - (1) Recruit, deploy, promote, train and compensate their leadership, faculty or staff;
 - (2) Charge Students fees, raise funds from government or private sources and utilize its budget;
 - (3) Offer any Academic Courses;

- (4) Perform research and scholarly works; and
 - (5) Form student associations.
55. Any freedom or autonomy granted by this Act shall not limit any other Support that may be granted or any other freedom prescribed by Law.

Knowledge Centres affiliated to religion

56. Notwithstanding any other Laws or Policies to the contrary:
- (1) Knowledge Centres affiliated to religion are permitted on equal terms and subject to the same requirements as other Knowledge Centres, provided that they offer secular Academic Courses; and
 - (2) Knowledge Centres affiliated to Buddhism as recognized in the Constitution of Bhutan shall be permitted to offer Academic Course on Buddhism in the City.

Quality assurance

57. Knowledge Centres shall maintain high quality of education and knowledge and shall create and maintain effective internal and external quality assurance systems that cover all Academic Courses in accordance with applicable Laws and Policies.

Service Providers

58. The Concessionaire shall enter into contracts with the Service Providers in the form and on terms approved by the Board.
59. All Service Providers shall obtain applicable Permissions before setting up operations in the City.
60. The Concessionaire shall ensure that the Service Providers maintain a high quality of service at all times.

CHAPTER 6
FINANCE, ACCOUNTS AND AUDIT

Finance

61. The activities of the Board shall be funded from:

- (1) Levies, fees and other charges payable to the Board by the Concessionaire and any other Person associated with the City in its performance of functions under this Act, including but not limited to the Concession Fees; and;
- (2) Interim budgetary support from the Government until the Board's own funds is sufficient to cover its activities.

Accounts and audit

62. The accounts of the Board, the Concessionaire, the Knowledge Centre and the Service Providers shall be prepared, maintained and audited in such form and in such manner as prescribed by Law.

Reports

63. The Board shall, at the end of each financial year, prepare and submit to the Cabinet in such form and at such time as may be prescribed, an annual report giving a true and full account of its activities during the previous financial year and the activities that are likely to be undertaken by it in the next financial year.

64. The Concessionaire shall prepare and submit to the Secretariat for the perusal of the Board, quarterly reports giving a true and full account of its activities and the activities of the Knowledge Centres and Service Providers during the previous quarter and shall give details of the activities that are likely to be undertaken in the next quarter.

CHAPTER 7
DISPUTE RESOLUTION

Dispute resolution

65. Any dispute, difference or controversy of whatever nature between the Board and the Concessionaire shall in the first instance be attempted to be resolved amicably by conciliation in accordance with the Agreement.
66. Any dispute, which is not resolved by conciliation, shall be finally decided by arbitration in accordance with the Agreement.
67. The Bhutanese courts shall enforce an arbitration award against the assets of the party who is to pay the award.

CHAPTER 8
MISCELLANEOUS

Powers of the Board to make rules

68. The Board may make rules consistent with this Act for carrying out the purposes of this Act.
69. In particular and without prejudice to the generality of the foregoing power, such rules may provide for the following matters:
 - (1) Granting of Permissions to Knowledge Centres;
 - (2) City development control; or
 - (3) City management.

Breach of the Agreement

70. The Board is liable to compensate the Concessionaire in accordance with the Agreement in the event of breach of the Agreement by the Government.
71. The Board is empowered to pay a termination payment in accordance with the Agreement in the event of the Concessionaire's default.

Immunity from prosecution

72. No legal proceeding or suit may lie against any member of the Board or its staff or a person acting for the Board in respect of their official duties done in good faith or intended to be done pursuant to the provisions of this Act. Such immunity does not cover corrupt acts committed by such persons.

Renegotiation

73. The Board may negotiate such changes to the Agreement as may be mutually agreed upon between the Board and the Concessionaire to achieve the visions and goals of the City.

Authoritative text

74. In any instance of a difference in meaning between the Dzongkha and the English texts of this Act each text shall be regarded as equally authoritative and the two texts shall be reconciled.

Definitions

75. In this Act, unless the context otherwise requires the following terms have the following meanings:
- (1) **“Academic Courses”** mean all academic or vocational programs or courses, trainings and other education and knowledge based modules whether or not they lead to grant of certificates, degrees or diplomas.
 - (2) **“Act”** means the Education City Act of Bhutan 2011.
 - (3) **“Agreement”** means the concession agreement for establishing, developing, promoting, operating, managing and maintaining the City.
 - (4) **“Authority Designated Area”** means the 50 acres of land within the City as identified in the Agreement that the Concessionaire shall partially develop and hand over to the Government to be give to the DHI Infra.
 - (5) **“Board”** means the Education City Board.

- (6) **“Cabinet”** means the cabinet of the Government of Bhutan.
- (7) **“Chief Executive Officer”** means the chief executive officer of the Secretariat.
- (8) **“City”** means the Bhutan Education City, which shall be a dedicated zone mainly for education and knowledge in the Kingdom of Bhutan.
- (9) **“Competent Authority”** means any department or an agency of the Government, any local or statutory authority, constitutional offices, or any other authority constituted or established under any Laws or Policies or under administrative control of the Government which is entrusted with the powers and responsibilities to grant or issue Permissions in relation to the City.
- (10) **“Concession Fee”** means any amount of money required to be paid by the Concessionaire to the Board in accordance with the Agreement.
- (11) **“Concessionaire”** means the special purpose vehicle incorporated under the Laws who is a party to the Agreement.
- (12) **“Developer”** means the Person who is selected to establish, develop, promote, operate, manage and maintain the City.
- (13) **“Educational Institutions”** mean institutions whether domestic or foreign imparting education and knowledge from pre primary to tertiary education, research, and short term courses or training and shall include vocational Courses and any other category as the Cabinet may determine on the recommendation of the Board.
- (14) **“Government”** means the Government of Bhutan.
- (15) **“Knowledge Centres”** mean the institutes set up in the City by Educational Institutions offering Academic or vocational Courses or doing research, innovation and other ancillary activities usually performed by Educational Institutions.
- (16) **“Laws”** mean all legislation that are in force in Bhutan including all rules, regulations and notifications, including any orders, judgments or decrees of any court.

- (17) **“National Educational Institutions”** mean the Educational Institutions outside the City established in Bhutan whether domestic or foreign.
- (18) **“Permissions”** include any clearance, approval, consent, no objection, registration, enrolment, licence and the likes by the Competent Authority in relation to the City.
- (19) **“Person”** means a natural or a juridical person.
- (20) **“Policies”** mean policies, guidelines and directives issued or revised, amended, changed or re promulgated by the Government from time to time.
- (21) **“Project Facilities”** mean all the amenities and facilities required under the Agreement to be developed, operated, managed and maintained on the Site by the Concessionaire.
- (22) **“Project Infrastructure”** means all real estate and infrastructure required under the Agreement to be developed, operated, managed and maintained on the Site by the Concessionaire.
- (23) **“Project Work”** means erection, creation and construction of Project Facilities and Project Infrastructure.
- (24) **“Royal University”** means the Royal University of Bhutan and its colleges or institutes.
- (25) **“Secretariat”** means the secretariat of the Board.
- (26) **“Service Providers”** mean Persons providing accommodation, entertainment, hospitality, maintenance, retail or other services not offered by Knowledge Centres.
- (27) **“Site”** means the land on which the City is to be established.
- (28) **“Students”** mean the students enrolled with the Knowledge Centres.
- (29) **“Support”** means the fiscal or any regulatory incentives, exemptions, subsidies or other supports provided by the Government in relation to the City.