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**Draft Construction Industry Development Rules**

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# Preamble

In exercise of powers conferred by the Executive Order, Construction Industry Development Charter...issued by the Cabinet, the Construction Industry Development Board hereby adopts the Construction Industry Development Rules 2016 as follows:

# Chapter 1

# Preliminary

## Title, Commencement and Extent

These Rules—

1. may be cited as the Construction Industry Development Rules of the Kingdom of Bhutan 2016;
2. come into force on the…Day of … Month of the …Year of Bhutanese Calendar corresponding to the…Day…Month 2016 or such date as announced/notified by the Board; and
3. apply to all Construction Works and Consultancy Services within the public sector domain in Bhutan, except the Construction Works and Consultancy Services within the private sector domain unless otherwise specified herein.

## Repeal

These Rules repeal all existing Instruments, which are inconsistent with these Rules.

## Rules of Construction

1. Unless the contrary intention appears, the singular includes the plural and vice versa.
2. The headings of Chapters, Rules and Sub-rules of these Rules are for ease of reference only and do not constitute interpretations of the text thereof.
3. Unless a term used in these Rules is defined in section 52 thereof, that term bears the same meaning with that of relevant legislation.

## Authority for interpretation

The authority for interpretation of any provisions of these Rules vests with the Board and its interpretation is final and binding.

#

# Chapter 2

# The Board

## The Board

1. There is an independent Board known as the Construction Industry Development Broad, which is established by the Cabinet.
2. The Board consists of the following members—
3. minister from the relevant Ministry as determined by the Royal Government who should also be the Chairperson;
4. relevant officer not below the position of director—
5. from the Ministry of Finance;
6. from the Ministry of Economic Affairs;
7. from the Ministry of Labor and Human Resources;
8. one representative from the Contractors;
9. one representative from the Consultants; and
10. head of the Secretariat who should not be below the position of director as the Member Secretary.
11. The Chairperson of the Board may increase, decrease or otherwise change the membership from time to time.

## Procedures

1. The presence of simple majority of the members constitutes a quorum for a meeting of the Board.
2. The Board shall adopt its rules of procedure consistent with these Rules.

## Secretariat of the Board

1. There shall be a Secretariat of the Board to assist the Board in discharging its functions or exercising its powers.
2. The Secretariat shall have such powers or functions, as may be delegated by the Board from time to time.

# Chapter 3

# Classes of Contractors/Consultants and Categories of Works/Services

## Classes of Contractors

1. In accordance with the criteria prescribed in Appendix 2A of these Rules, Contractors are divided into three (3) classes, namely—
2. large;
3. medium; and
4. small.
5. The Appendix 2B of these Rules determines each Contractor’s—
6. financial threshold to bid for the Construction Works; and
7. permissible number of Construction Works to be undertaken at a time.
8. Once a change in the class of Contractors has been made whether—
9. by the Board on its own; or
10. upon application by the Contractors on a voluntary basis, no further change shall be made—
11. until the expiry of Certificate validity; or
12. for a minimum period of one (1) year, whichever occurs later.

## Change of Contractor Class

1. Any Contractor who is already registered in a particular class may voluntarily apply for change of that class in the form and manner as may be prescribed, if—
2. the Contractor’s Certificate in respect of the existing class is valid;
3. the Contractor surrenders the existing valid Certificate; and
4. the Contractor furnishes an undertaking that, using the existing Certificate—
5. the Contractor has not participated in bids at any time prior to the application.
6. The Board may grant the application upon receipt of fee prescribed in the schedule of fees, if—
7. such an application is for upgrading a lower class to a higher class—
8. the Contractor fulfills the eligibility requirements prescribed in Sub-Rule 18.1 of these Rules in respect of the class applied for; and
9. the conditions specified in Sub-Rule 9(1)(a) and (b); or
10. such an applicant is for downgrading from a higher class to a lower class, the Contractor fulfills the conditions specified in Sub-Rule 9(1)(a) and (b).
11. The Board may reject the application and revoke Construction Works in any or all categories awarded to that Contractor, if it determines that—
12. the Contractor does not fulfill the requirements of Sub-Rule 9(2)(a) and (b);
13. the change applied for is solely for gaining advantage over others; or
14. the Contractor has, using existing Certificate—
15. secured Construction Works; or
16. participated in bids at any time prior to the application.

## Downgrading of Contractor Class by Board

1. The Board may, on its own, downgrade any Contractor from a higher class to a lower class, if the Board receives directives from any competent authority.
2. Before downgrading any Contractor to a lower class, the Board must provide to Contractor a minimum period of thirty (30) days prior notice as to why the Contractor should not be downgraded.
3. The Board shall downgrade any Contractor from a higher class, if the Contractor—
4. fails to respond to the notice within the prescribed time period without a reasonable justification in its opinion; or
5. the Contractors’ response to the notice is unsatisfactory in it opinion.

## Categories of Construction Works

In accordance with the criteria prescribed in Appendix 2C of these Rules, all Construction Works are divided into four (4) categories, namely—

1. W1: roads and bridges;
2. W2: traditional Bhutanese Paintings & finishing;
3. W3: buildings, irrigation, drainage, flood control, water supply & sewerage; and
4. W4: power and telecommunication works.

## Adding Categories of Construction Works

1. Any Contractor may apply to the Board in the form and manner as may be prescribed for an additional category of Construction Work to be included—
2. at any time during the validity of Certificate, or
3. at the time of re-registration.
4. The Board may, upon receipt of fees as prescribed in the schedule of fees, grant the application if the applicant fulfills the eligibility requirements prescribed in Sub-Rule 18.1 of these Rules.

## Category of Consultants

1. In accordance with the criteria as may be prescribed by the Board, all Consultants are divided into three (3) broad categories, namely—
2. civil engineering services (CES), which is further subdivided into—
3. C1: structural design;
4. C2: geo-tech studies;
5. C3: social and Environmental Studies;
6. C4: roads, bridges, buildings and airports;
7. C5: irrigation, hydraulics, water supply, sanitation, sewerage and solid waste and construction management, site supervision;
8. C6: surveying; and
9. C7: water resources and hydropower projects.
10. electrical engineering services (EES), which is further subdivided into—
11. E1: investigation and design of hydropower projects;
12. E2: operation and maintenance of hydropower projects;
13. E3: rural and urban electrification, transmission lines, communications and scada;
14. E4: construction management and site supervision;
15. E5: substation;
16. E6: energy efficiency services; and
17. E7: house wiring.
18. architectural services (AS), which is further subdivided into—
19. A1: architectural and interior design;
20. A2: urban planning; and
21. A3: landscaping and site development.

## Change of Categories of Consultancy Services

1. At any time during the validity of Certificate, an applicant may apply to the Board in the form and manner as may be prescribed for—
2. an additional category of Consultancy Services to be included; or
3. cancellation of the registered Consultancy Services.
4. The Board may, upon receipt of fees as prescribed in the schedule of fees and surrender of the existing Certificate, grant the application and—
5. issue Certificate for additional category of the Consultancy Service applied for, if the applicant fulfills the eligibility requirements prescribed in Sub-Rule 19.1 of these Rules; or
6. cancel the registered Consultancy Services.

## Categories of Construction Professionals

In accordance with the criteria prescribed in Appendix 6 of these Rules, all Construction Professionals are divided into 5categories, namely—

1. Plumbing;
2. Masonry;
3. Electrical House Wiring;
4. Construction Carpentry; and
5. Welding & Fabrication;
6. *Zorig.*

# Chapter 4

# Registration of Contractors/Consultants

## Registration Prerequisite

1. No person is allowed to engage in any activity relating to the Construction Industry as a Contractor, Consultants or Construction Professionals without obtaining a valid Certificate from the Board.
2. Any person who engages in any activity relating to the Construction Industry as a Contractor, Consultants or Construction Professionals without first obtaining a valid Certificate from the Board is guilty of an offense under relevant laws.

## Registration of Contractor

## 17.1 Eligibility for Registration as Contractors

1. A person is eligible to be issued Certificate as a Contractor—

1. if the person is an individual upon—
2. attaining the age of 18 years;
3. production of security clearance either in original or copy;
4. production of citizenship identity card either in original or copy; and
5. subject to Sub-Rule 3, production of certificate of a mandatory induction course;
6. if the person is a company, upon production of valid certificate of incorporation from the Register of Companies; and
7. if the person fulfills the minimum—
8. human resources requirements of key personnel already employed or proposed to be employed specified in Appendix 2C; and
9. equipment or facilities requirements specified in Appendix 2D.
10. The requirements for a mandatory induction course is not necessary, if an applicant for—
11. a large class Contractor—
12. has employed, on a regular basis, a civil engineer possessing a bachelor degree with at least three (3) years of work experience provided that such civil engineer was not used earlier by any other Contractor for the purpose of registration; and
13. continues to employ such a civil engineer for a minimum duration equivalent to the validity of Certificate.
14. a medium class Contractor—
15. has employed, on a regular basis, a civil engineer possessing a diploma with at least three (3) years of work experience provided that such civil engineer was not used earlier by any other Contractor for the purpose of registration; and
16. continues to employ such a civil engineer for a minimum duration equivalent to the validity of Certificate.
17. A person must apply to the Board using the form prescribed in Appendix 1A and accompanied by the following documents—
18. in relation to all personnel already employed or proposed to be employed—
19. a valid curricula vitae with undertakings of all employees, including appointment order and academic transcripts; and
20. documents evidencing experience of all employees.
21. in relation to the equipment or facilities owned—
22. the documents evidencing ownership, including the registration certificates of every equipment or facilities if the registration is required, or a valid cash memo or bills duly signed and sealed by competent authorities if registration is not required;
23. the insurance certificates; and
24. verification reports duly endorsed by an agency in whose favor they were used.
25. If the Board is satisfied that the person fulfils all the requirements of this Rule, it may grant the application and issue Certificate to such person in the format provided in Appendix 6A of these Rules upon receipt of fees prescribed in the schedule of fees.
26. If the Board finds that the personnel or equipment to be released are shown as engaged in Construction Work of an agency but not actually engaged for the Construction Work, the Board may refer such case to the competent authority for taking disciplinary action.

## 17.2

## Eligibility for Registration as Foreign Contractor

1. All foreign construction firms wishing to execute work in Bhutan shall register with CDB.
2. A foreign construction firm is eligible to be issued Temporary Certificate (work based) as a Contractor for the purposes of International Competitive Bidding if the firm fulfills the eligibility requirements in Section 18.2 (a)
3. An application for temporary registration must be made using the form prescribed in Appendix 1A and accompanied by the following—
4. if the applicant furnishes-
5. a brief company profile;
6. all documents evidencing the authenticity of its legal status in its place of residence;
7. a specific description of Construction Work for which registration is sought;
8. a copy of a valid license duly attested by a competent authority;
9. a copy of all documents evidencing relevant past experience duly verified by previous clients and authenticated by client(s) floating ICB where the Construction Works have been undertaken;
10. financial capacity, including a balance sheet of immediate past five (5) years.
11. If the Board is satisfied that the applicant fulfils all the requirements specified in Sub-Rule (2) and upon receipt of fees prescribed in the schedule of fees, it may grant the application and issue a temporary Certificate substantially in the format provided in Appendix 6B on such terms and conditions as the Board deems fit.
12. Notwithstanding Rule 21.2 (2), a temporary Certificate lapses, if—
13. the Construction Works for which the Certificate was granted has been terminated or completed and handed over; and
14. a person to whom the Certificate has been granted became disqualified during bidding process or execution of the Construction Works.

## 19 Registration of Consultants

## Eligibility for Registration as Consultants

1. A person is eligible to be issued Certificate as a Consultant—

1. if the person is an individual upon—
2. attaining the age of 18 years;
3. production of security clearance either in original or copy; and
4. production of citizenship identity card.
5. if the person is a company, upon production of valid certificate of incorporation from the Register of Companies;
6. if the person fulfills the minimum—
7. human resources requirements of key personnel already employed or proposed to be employed specified in Appendix 3B for respective Consultancy Services; and
8. equipment requirements specified in Appendix 3C.
9. A person must apply to the Board using the form prescribed in Appendix 1B and accompanied by the following documents—
10. in relation to the key personnel already employed or proposed to be employed—
11. a valid curricula vitae with undertakings of all employees, including appointment order and academic transcripts; and
12. documents evidencing experience of all employees.
13. in relation to the mandatory equipment owned (if applicable), all the documents evidencing ownership.
14. If the Board is satisfied that the person fulfils all the requirements of this Rule, it may grant the application and issue Certificate to such person substantially in the format provided in Appendix 5A of these Rules upon receipt of fees prescribed in the schedule of fees.

## Eligibility for Registration as Foreign Consultants

1. A person who is not a citizen of Bhutan is eligible to be issued Certificate as a foreign Consultant if the person fulfills the eligibility requirements prescribed for the respective category of Consultant.
2. An application for temporary registration must be made using the form prescribed in Appendix 1C and accompanied by the following—
3. if the applicant is an individual—
4. all documents evidencing the authenticity of its legal status in its place of residence;
5. a specific description of the Consultancy Services for which registration is sought;
6. a copy of a valid license duly attested by a competent authority;
7. a copy of all documents evidencing relevant past experience duly authenticated by its client where Consultancy Services have been offered; and
8. financial capacity, including a balance sheet of immediate past five (5) years.
9. if the applicant is a company—
10. all information described in Sub-Rule18.1 (3)(a)(i) to (v); and
11. a brief company profile.
12. If the Board is satisfied that the applicant fulfils all the requirements specified in Sub-Rule (2) and upon receipt of fees prescribed in the schedule of fees, it may grant the application and issue a temporary Certificate substantially in the format provided in Appendix 5C on such terms and conditions as the Board deems fit.
13. Notwithstanding Rule 21.2 (2), a temporary Certificate lapses, if—
14. the Construction Works for which the Certificate was granted has been completed or handed over;
15. a person to whom the Certificate has been granted became disqualified during bidding process or execution of the Construction Works; and
16. one (1) year has been passed since the date of its expiry.

## Registration of Construction Professionals

## Eligibility for Registration as Construction Professionals

1. Within thirty (30) days after coming into force of these Rules, each person must apply to the Board for Certificate as a Construction Professional using the forms prescribed—
2. if the person is an architect, in Appendix 1C;
3. if the person is an engineer other than an architect, in Appendix 1D; and
4. if the person is a special trade professional, in Appendix 1E; and
5. accompanied by the following—
6. a valid academic transcript; and
7. a copy of citizenship identity card.
8. if the person is a skilled worker and wants to register as a special trade professional, a valid skill assessment certificate issued by Ministry of Labour and Human Resources (MoLHR) and a copy of citizenship identity card.
9. The Board may grant the application and issue Certificate in the format as may be prescribed upon receipt of fees prescribed in the schedule of fees.

 a) on such terms and conditions as the Board deems fit.

1. All construction professional working other than in the public service failing to apply to the Board for Certificate as a Construction Professional within sixty (60) days after coming into force of these Rules, a fine of Nu. 100 for each day of delay will be levied till the delay subsists unless there is a reasonable justification in the opinion of the Board.

## Eligibility for Registration as Foreign Construction Professionals

1. Each applicant must apply to the Board for registration as a foreign engineer/architect.
2. The Board may, if the foreign engineer/architect, fulfils all the requirements as may be specified by the Board, upon receipt of fees prescribed in the schedule of fees, may grant the application and issue a Certificate substantially in the format provided in Appendix 6D & 6F;
3. on such terms and conditions as the Board deems fit; and
4. by imposing an obligation on engineers /architects to report to the Board on their employment status.

## Registration Generally

## Conditions of Certificate

The conditions any Certificate is subject to include—

1. comply with an applicable code of ethics, if any;
2. return to the Board as and when required by the Board;
3. have an established office setup in cases of large and medium class contractor in such areas as may be designated by competent authorities;
4. inform to the Board about the change of register information;
5. comply with all prevailing laws of the Kingdom of Bhutan;
6. not lease or sublease Certificate to any person;
7. issue Power of Attorney only to—

(i) regular employees registered with the Board by large and medium classes; and

(ii) supervisors registered with the Board by small class contractor for the purpose of bid opening; and

1. create and erect in an appropriate and visible place a sign board upon completion of every new major Construction Work displaying—

(i) name of the Constructors;

(ii) registration number; and

(iii) start and completion dates.

## Number and Term of Certificate

1. At any given point of time, one person is entitled to and the Board shall issue one Certificate for Construction Works or Consultancy Services. However, the Board could issue one Certificate for Construction Works as well as one Certificate for Consultancy Services at the same time to a single person.
2. A Certificate issued by the Board to each Registrant remains valid for a period of two (2) years from the date of its issue except the following—

|  |  |
| --- | --- |
| Consultants  | Certificate validity  |
| Foreign Contractors/Consultants | One (1) year subject to Sub-Rule 18.2 (4)  |
| Architects in the public service  | Five (5) years |
| Architects in the private service | Two (2) years |
| Engineers in the public service  | Five (5) years  |
| Engineers in the private service | Two (2) years |
| Special trade professionals | Three (3) years |

## Deregistration of Registrants

1. Subject to Sub-Rule 21.4, the Board may, on its own, deregister Registrants, if—
2. the Board shall de-register those firms who violates these rule and any other prevailing laws of the Kingdom of Bhutan;
3. they apply for de-registration on a voluntary basis in the form and manner as may be prescribed; or
4. the Board receives directives to deregister from any competent authority.
5. Subject to Sub-Rule 21.4, any Registrant who has been deregistered for whatever reason remains in force for two (2) years from the date of deregistration.

## Downgrading of Contractor

1. Any Contractor, who has been downgraded by Board and may apply in the form and manner as may be prescribed along with the documents specified in Appendix 2A, to—
2. update the information in the Register; or
3. release the personnel or equipment.
4. The Board may grant the application, if—
5. it is satisfied that such personnel are employed or equipment are owned by the Contractor; and
6. it is satisfied that there is no other liability or dispute with another Contractor.

## Re-registration of Registrants

1. Any Registrant may apply to the Board for re-registration—
2. within thirty (30) days before expiry of their Certificate validity or earlier
3. subject to Sub-Rule 3, at any time after the deregistration for whatever reason.
4. An application for re-registration shall be made following all applicable procedures described in this Chapter 4 and accompanied by the following—
5. by using the form prescribed in Appendix 1A if the Contractor is in large and medium classes—
6. the documents evidencing the deposit of provident fund for employees and TDS Certificate;
7. the previous CDB Certificate; and
8. the certificate of mandatory capacity building programs attendance.
9. if an contractor is in small class—
10. the previous CDB Certificate; and
11. the certificate of mandatory capacity building programs attendance.
12. if the applicant is other than Contractor, as specified in Appendix 1B - 1E.
13. Subject to Sub-Rule 4, if any Registrant’s failure to apply for re-registration before the expiry of Certificate validity, a fine of Nu. 100 for each day of delay will be levied if the Registrant is—
14. large and medium classes Contractor, Consultant and Construction Professionals other than a special trade professionals, as long as the delay subsists without any limitation; and
15. small class Contractor, which includes W2 for the sole purpose of this Sub-Rule and special trade professionals, up to a maximum period of ninety (90) days.
16. If the Board is satisfied that the Registrants fulfils all the requirements specified in this Chapter 4 and upon receipt of fees prescribed in the schedule of fees, it may grant the application and issue Certificate—
17. if the Registrant is a Contractor or Consultant, substantially in the format provided in Appendix 6A - 6C; and
18. if the Registrant is other than Contractor or Consultant, in the format as may be prescribed in Appendix 6D - 6F.

## Transfer of Certificate

1. Any Contractor or Consultant may, at any time during the validity of its Certificate, apply to the Board for transfer of Certificate to another person in the form and manner as may be prescribed subject to the following conditions—
2. the proposed transfer has been announced in print media and thirty (30) days have been passed since the announcement; and
3. the proposed transferee—
4. if an individual, is entitled to inherit the Certificate under inheritance laws; and
5. if a company, is entitled to possess the Certificate under the Companies Act.
6. If the Board is satisfied that the Contractor or Consultant fulfils all the requirements specified in Sub-Rule (1), it may approve the proposed transfer upon receipt of fees prescribed in the schedule of fees.

##  Loss of Certificate

1. Any Registrant who has lost its Certificate may apply to the Board for a duplicate Certificate in the form and manner as may be prescribed by the Board.

1. If the Registrant proves the loss of its Certificate to the satisfaction of the Board, including by production of relevant documents duly verified by the Royal Bhutan Police, the Board should grant the application and issue Certificate upon receipt of fees as prescribed in the schedule of fees—
2. if the Registrant is a Contractor or Consultant, substantially in the format provided in Appendix 6A - 6C;
3. if the Registrant is other than a Contractor or Consultant, in the format as may be prescribed by the Board.

# Chapter 5

# Register

## Establishment of Register

The Board must create, periodically update and maintain the Registers of Contractors, Consultants and Construction Professionals, which should be available free of charge for inspection at the office of the Board by any person during office hours.

## Contents of Register

1. The Register must contain the following particulars in relation to an applicant—
2. the details included in the applicant’s Certificate;
3. the applicant’s—

(i) business telephone number and email address; and

(ii) fax number (if any);

1. if the applicant is an individual, the applicant’s mobile telephone number;
2. if the applicant is an incorporated company—

(i) the name, establishment address, email address and mobile/telephone number of each of the applicant’s nominees; and

(ii) the landline telephone number and fax number (if any) of each of the applicant‘s nominees;

1. details of any debarment or suspension of the Certificate or adverse records, if any.
2. The Board may enter in the register any other details it considers appropriate.
3. An individual is eligible to be a nominee of a company if the individual—
4. is a director or employee so authorized by of the company; or
5. is otherwise able to exercise the functions of a nominee on a daily basis.

## Corrections to Register

The Board may—

1. correct a mistake, error or omission in the Register; or
2. correct or omit an entry that has become inaccurate.

## Change of Register Information

1. The Registrant must inform the Board in writing of any change in a detail relating to the Registrant that is recorded in the Register no later than fifteen (15) days after—
2. the day of the change to which it relates happened; or
3. the day the Registrant became aware of the change.
4. However, if the detail relating to the Registrant that is recorded in the Register pertains to ownership, location or name of a company, the company must—

1. announce about such changes in print media for a minimum period of thirty (30) days before seeking the Board’s approval; and
2. apply to the Board in the form and manner prescribed as may be for approval no later than fifteen (15) days after the announcement along with a copy of such announcement.
3. The Board, upon receipt of fees as prescribed in the schedule of fees, may grant the application—
4. if it determines that the company has complied with the requirements of Sub-Rule (2) of this Rule; and
5. the new name proposed is distinct from other existing names.

#

# Chapter 6

# Construction Industry Information System

## Establishment of Construction Industry Information System

1. The Board should establish, periodically update and maintain an accurate and complete information system on the Construction Industry as it may deem fit as a national data base on the Construction Industry.
2. The construction industry information system may include information on, but not limited to—
3. names of registered Contractors, Consultants and Construction Professionals;
4. work history and performance of each Contractor, Consultant and Construction Professional; and
5. details of Contractor's on-going Construction Works.
6. The Board or its authorized officer is empowered to seek or demand for any information from any procuring agencies and persons and such procuring agency and persons have the obligation to furnish such information to the board.

## Updating Construction Industry Information System

All procuring agencies must enter correct and complete information on each Construction Work in e-tool/Cinet in the form and manner as may be prescribed in Appendix 7A & 7B.

## Access to Information

1. The Board may provide online access to the contractors for viewing their profile.
2. The Board may provide user’s credentials to public procuring agencies free of charge on ‘need to know’ basis and such public procuring agencies are prohibited from sharing those user’s credentials to prevent manipulation, alteration or disclosure of confidential information.
3. The Board may provide online access to the statutory bodies on ‘need to know’ basis.

# Chapter 7

# Promotion of Construction Industry

## Promotion of Technology

The Board shall endeavor to promote effective construction technologies through research in cooperation with appropriate institutes and advise stakeholders as to adoption of such technologies as it consider necessary to facilitate and assist in the mechanization of the Construction Industry.

## Human Resource Development

The Board should, to promote the advancement of the skills and expertise of persons engaged in the Construction Industry, endeavor to—

1. establish appropriate training curricula and courses on its own or in cooperation with appropriate institutes;
2. develop and impart induction training course for Contractors, Consultants and Construction Professionals on its own or in cooperation with appropriate institute;
3. develop and impart a professional capacity development program for Contractors, Consultants and Construction Professionals on its own or in cooperation with appropriate institutes;
4. provide budgetary support in providing training facilities to Contractors, Consultants and Construction Professionals;
5. assist in the creation of certification and skill assessment programs for construction professionals in collaboration with appropriate institutes;
6. coordinate, facilitate or enable the development of the Construction Industry by mobilizing efforts and resources; and
7. promote public-private partnership (PPP) in construction industry.

## System Development

1. The Board shall endeavor to promote or undertake research into any matter relating to the Construction Industry and develop sound systems and practices in the Construction Industry, including the development of—
2. policy for promoting proper standards and efficiency in the Construction Industry to standardize and improve construction techniques and materials;
3. effective and efficient monitoring system for Contractors and Consultants;
4. guidelines on the Contractor’s performance assessment to ensure uniformity across all procuring agencies;
5. average performance scoring system to be used by all procuring agencies;
6. comprehensive contract completion reporting mechanism for all procuring agencies;
7. CiNET or e-tool, including the user manual thereof and evaluation guidelines for all procuring agencies;
8. systems and procedures for reporting on Construction Works and Consultancy Services right from the bidding stage to completion;
9. business codes of conduct, practices and procedures and implementation thereof; and
10. prescribe appropriate design, management, monitoring systems.
11. The Board may advise and make recommendations to the Government with respect to Construction Works and Consultancy Services in the Construction Industry.

## Awareness Programs

The Board should endeavor to—

1. inform stakeholders on these Rules and other related laws;
2. provide user trainings to stakeholders on changes in practices, procedures or systems; and
3. share information on the Construction Industry on a periodical basis through publications or otherwise.

# Chapter 8

# Monitoring and Inspection

## Compliance Monitoring

1. All Registrants have duty to continue to remain adhered to the minimum eligibility requirements and the Board must periodically or as frequently as necessary monitor all Registrants and their construction sites, whether public or private to ensure compliance with these Rules and, in particular—
	* + 1. to assess continued fulfilment of minimum—

(i) updated business telephone number and email address; and

(ii) facility requirements, including their deployment in the performance of a particular Construction Work by Contractor owned/hired equipments;

* + - 1. capacity and workmanship of Contractors, including the extent of adoption of a new construction technology and know-how for mechanization;
			2. conformance and compliance to the contractual provisions, including delays, if any;
			3. a number of total workforce employed in the execution of a particular Construction Work and the extent of national workforce employment;
			4. review and monitor any material, plant and machinery requirements of the construction industry and encourage the development and use of local products in the Construction Works;
			5. to verify—

(i) place of works; and

(ii) business establishment/office set-up;

* + - 1. in collaboration with other relevant government agencies, assess—

 (i) compliance with occupational health and safety requirements, including site condition and working environment; and

(ii) violation of laws or rules applicable to the Construction Industry, including fronting, unauthorized sub-contracting of Construction Works or unethical practices or violation of Code of Conduct for Contractors.

## Onsite Inspection of Public Construction

1. The Board or its authorized representative may enter any ongoing or completed construction sites, at all reasonable time—
2. to make necessary inquiries or inspections of such equipment or facilities as it may consider necessary;
3. to take or remove samples of any material or things found on the site and keep record;
4. to take photographs and measurements and make sketches and recordings on the site and keep record;
5. to test the quality of construction material and keep record;
6. to interview the Contractor’s onsite employees;
7. to undertake random checks on construction practices.
8. to inspect workmanship, quality and compliance with design and specifications.
9. The Contractor or its employees whether onsite or offsite must provide all the necessary required information to the board or its authorized representatives.

## Onsite Inspection of Private Construction

* + - * 1. The Board or its authorized representative may inspect private construction sites if necessary.
				2. The Construction Work will be treated in the same manner as those Construction Works in the public sector domain for the purposes of these Rules.

#

# Chapter 9

# Performance Evaluation and Incentives

## Performance Evaluation

1. The Board should assess each Contractor’s performance on a regular basis through a contractor monitoring system and average performance scoring system for the purposes of improving Contractor’s performance and reward for excellence performance.
2. The Board may, based on each Contractor’s performance, identify poor performance and maintain a track record thereof.

## Incentives for Contractors

1. The Board may compile a list of Contractors, Consultants and Construction Professionals with an excellent performance track record (as may be defined by the Board) in the past two (2) years.
2. The Board may decide that only those Contractors, Consultants and Construction Professionals with such excellent performance track are eligible—
3. for direct contracting works;
4. to be included in a list of bidders for limited bidding process; and
5. for participation in a pre-qualification process.

## Construction Excellence Award

The Board may establish and coordinate the presentation of national awards on an annual basis for—

1. construction excellence;
2. outstanding achievements in different fields of construction; and
3. design and development of energy efficient buildings, structures and construction techniques.

#

# Chapter 10

# Complaints and Related Actions

## Establishment of Effective System for Filing Complaints

1. The Board must establish an effective system for filing complaints.
2. Any person could file a complaint with the Board, if the person, based on available evidence, believes that another person has violated these Rules or laws concerning—
3. any professional negligence, lack of competency or violation of code of ethics;
4. moral turpitude, malpractice, fraud or dishonesty; or
5. breach of any terms and conditions where registration has been granted subject to any terms and conditions.

## Complaints Log

1. The Board shall establish, maintain and record in a chronological log—
2. complaints received under section 58(2), and forthwith provide the person who filed the complaint with an acknowledgment of receipt of such complaint; or
3. information otherwise received.
4. The Board shall maintain the log as it deems fit and, at a minimum, include the following—

(a) the name and address of a complained person;

(b) the source of the information, if available; and

(c) a description of the complaint or information.

## Board may Decline Investigation and Actions

1. If the Board is satisfied that the investigation would be unnecessary or futile in accordance with the predetermined criteria (Appendix...) developed by it, the Board may decline to—
2. conduct an investigation into any complaint; or
3. proceed with any further investigation.
4. The Board should issue such guidelines on assessment or investigation of complaints, as it deems fit.

## Penalty for False Complaint

1. A complainant is liable for punishment, if the complainant—
2. willfully makes or causes to be made to the Board a false or misleading complaint with malicious intent; or
3. misleads the Board by giving false information or making a false statement or accusation.

1. If any complainant who is other than a Registrant files a false compliant, such complainant may be liable under the Penal code.

## Actions Against Registrants

The outcome of the proceedings will generally fall into one of the following categories—

1. case termination;
2. no action required;
3. warning;
4. downgrading a class or category;
5. adverse record;
6. suspension of certificates;
7. de-registration; or
8. cancellation of certificates.

## Reprimand

The Board may warn the Registrants, if —

1. they file a false complaint under Sub-Rule 43 (1) in the first instance;
2. they violate the code of ethics in the first instance;
3. the Board receives any information from any procuring agency regarding—

(i) the termination of contract without a reasonable justification; or

(ii) neglect of the Construction Works or Consultancy Services without a reasonable justification.

## Downgrading Class or Category

44.3.1 The Board may downgrade any Registrant in accordance with Rule 10 for the reasons stated therein.

44.3.2 Registrant has subsequently breaches the mandatory criteria prescribed for that class after obtaining the Certificate.

## Deregistration

The Board may deregister Registrants in accordance with Sub-Rule 21.3 for the reasons stated therein.

## Suspension of Certificates

The Board may suspend Certificates during the investigations for not more than three (3) years, including for the following reasons, if—

1. suspension of any Registrant is required by the Debarment Rules;
2. more than three (3) adverse records have been noted in the Register/CRPS against any Registrant; or
3. any Registrant violates the terms and conditions of Certificate.

## Cancellation of Certificates

The Board may cancel the Certificate, if:

1. registrants have been adjudged bankrupt or declared insolvent by Court of Law;
2. registrants have obtained their Certificates or registration by fraud or misrepresentation; or
3. Court of Law orders cancellation.

## Actions Subsequent to Conviction

1. The Board shall take action against a person who has committed any offense and convicted by a courts of law in Bhutan as follows:

|  |  |
| --- | --- |
| Imprisonment terms  | Duration of Certificate suspension  |
| Six (6) months to one (1) year  | One (1) year  |
| Above one (1) to two (2) years  | Two (2) years |
| Above two (2) to three (3) years  | Three (3) years |
| Above three (3) years  | Deregister? |
| For conviction more than once for any offense | Deregister? |

## Adverse Record

The Board may place in the Register/CRPS any record action taken against the Registrant by—

1. the Board under these Rules;
2. any procuring agency under contracts; or
3. any audit related observations.

# Chapter 11

# Miscellaneous

## Amendment

1. The Board may amend, supplement, or otherwise revise these Rules at any time.
2. Such a revision is effective as of the date of adoption thereof by the Board and applies to any matter, which is a subject of these Rules and which has arisen after such date.

## Alternative Dispute Resolution

If the parties so desire as provided for in the contract, any dispute relating to a contract for the Construction Works or Consultancy Services may be resolved in accordance with the provisions of the Alternative Dispute Resolution Act.

The Board may prescribe procedures for the carrying out of the provisions of these Rules as applicable to the Construction Industry.

## Debarment

The Board could perform any other functions relating to the debarment, in addition to those already entrusted to it under the Debarment Rules, as amended from time to time; with regard to the matters covered by these Rules.

## Savings and Transitional Provisions

All actions and other matters commenced under the repealed Instruments and which have not been concluded before the commencement of these Rules should be continued and concluded in all respects as if those Instruments had not been repealed.

## Definitions

As used in these Rules, the following terms have the following meanings—

* 1. “**Board**” means the Construction Industry Development Board established by Rule 5 and the “Chairperson” means the Chairperson thereof;
	2. “**Certificate**” means the certificate of registration of Contractors, Consultants or Construction Professionals, as the case may be;
	3. “**Change of contractor class**” means—
1. up-grading from a lower class to a higher class; or
2. down-grading to a lower class from a higher class, whether—
3. on an application by the Contractor; or
4. by the Board on its own;
	1. “**Construction Industry**” means the industry dealing with Construction Works and Consultancy Services;
	2. “**Construction Professionals**” includes Construction Professionals and, whether working in public or private sector—
5. architects;
6. engineers in all disciplines; and
7. special trade professionals, including graduates of the Training Institutes related to construction;
	1. “**Construction works**” include—
8. all categories of Construction Works as described in Rule 12; and
9. any Construction Works which form an integral part of, or are preparatory to the Construction Works described in paragraph (a), including site clearance, earth-moving, excavation, laying of foundation, site restoration and landscaping;
	1. “**Consultancy services**” include services of any kind and descriptionoffered in relation to the Construction Works;
	2. “**Consultant**” means an entity entering into a contract to provide the required Consultancy Services;
	3. “**Contractor**” means an individual or a legal entity entering into a contract to execute construction works;
	4. “**Day**” accept in calculating fines, means working days of the Government, unless otherwise specified;
	5. “**Debarment**” has the same meaning as in the Debarment Rules, as amended from time to time;
	6. “**Experience**” means hands-on works or services undertaken or offered, including an internship and on-the-job training so far as they are relevant to the present Construction works or Consultancy Services;
	7. “**Instruments**” include a manual, circular, notification and the like;
	8. “**Person**” includes an individual, partnership, corporation, organization, enterprise, agency, or other legal entity whether public or private and successor, representative, or agent of one of them;
	9. “**Public service**” includes any civil service outside the private sector;
	10. "Procuring Agency" includes all agencies using services of CDB registered firms.
	11. “**Register**” means the register of contractors or the register of consultants, as the case may be, specified in Chapter 5;
	12. “**Registrant**” means a Contractor, Consultant or Construction Professionals, as the case may be; and
	13. “**Rules**” mean these Construction Industry Development Rules.
	14. **"Zorig"** means lhadri (Traditional Bhutanese Painting), *Jingzo* (Construction of Statue), *Patra* (Wood Carving) etc.