
Cabinet Secretariat
Royal Government of Bhutan
FOREWORD

Regulatory Impact Assessment (RIA) is a tool to analyse the likely effects of a proposed new regulation or regulatory change. It involves a detailed analysis to ascertain whether or not the new regulation would have the desired impact. It helps to identify any possible side effects or hidden costs associated with regulation and to quantify the likely costs of compliance on citizens or businesses. It also helps to clarify the enforcement cost implications to the Royal Government. RIA can enhance the quality of lawmaking in social and economic areas, system of governance, improve the capacity and performance of the public service.

Recognizing the importance of RIA, the Committee of Secretaries (CoS) during its 26th session held on 1st December 2011, approved the Regulatory Impact Assessment (RIA) Rules and Regulations 2011 and the establishment of a Central RIA Unit in the Cabinet Secretariat with the objective of mainstreaming RIA into the system. The introduction of the RIA system will strengthen the legal and regulatory drafting with a modern ex ante evaluation process where new Legal Measures and amendments to the existing Legal Measures are prepared through a structured process of quality control which is based on principles of good regulation. This Regulatory Impact Assessment (RIA) Rules and Regulations 2011 will ensure mainstreaming of RIA in all ministries, agencies, commissions, improve the quality of regulatory measures and it will also aid in decision-making process, enhance transparency, accountability, coordination and coherence in the regulatory process.
The introduction of RIA joins a series of other initiatives such as the Gross National Happiness Commission's (GNHC) Protocol for Policy Formulation and the Standard Cost Model initiative that have been launched by the Royal Government of Bhutan to improve the effectiveness of the governance system.

Therefore, I am confident that all Ministries, Commissions and Agencies will endeavour promoting the use of RIA tool with the objective of improving the quality of regulatory measures that will contribute towards fulfillment of Good Governance in the country.

Trashi Delek!

(Rendên Wangchuk)
Cabinet Secretary/CoS Chairperson
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1. Title, Coverage and Commencement

1.1 These Rules shall:

a) be known and cited as the Rules and Regulations for Regulatory Impact Assessment System in Bhutan, 2011;
b) extend to all ministries, commissions and agencies;
c) come into force on 1st May, 2012.

2. Authority

2.1 This Rules and Regulations for Regulatory Impact Assessment System in Bhutan shall be adopted in pursuit of the principle of good governance.

3. Purpose and scope

3.1 The purpose of these Rules is:

a) to establish a Regulatory Impact Assessment System in Bhutan;
b) to improve the quality of Regulatory Measures;
c) to aid decision making; and
 d) to enhance transparency, accountability, coordination and coherence in the regulatory process.

3.2 These rules shall extend to:

a) Bills;
b) Amendment of Acts;
c) Rules & Regulations (with exception to those Rules & Regulations formulated based on existing Policies or Acts)

4. Exemptions

4.1 These Rules shall not affect the operation of the Protocol for Policy Formulation in the Royal Government of Bhutan.

4.2 All matters related to national security, budget and taxation, Royal Decree, ratification of international conventions shall, notwithstanding anything contained in rule 3.2, be exempted from preparation of RIA Report.

4.3 Any urgent proposal in response to emergency situation or regulation
without substantive impact or of a purely formal nature may, notwithstanding anything contained in rule 3.2, be exempted from preparation of a RIA Report.

4.4 Exemptions under rule 4.3 shall require validation from the Committee of Secretaries.

5. Regulatory Impact Assessment

5.1 Regulatory Impact Assessment involves detailed analysis to ascertain whether or not a new or amended Regulatory Measure would have the desired impact and shall identify the adverse impacts or any hidden costs associated with the Regulatory Measure.

5.2 A RIA Report shall, in accordance with Annex 2 of these Rules, contain an assessment of economic, social, environmental and budgetary impacts that the Regulatory Measure may generate.

5.3 The sectors shall ensure that current statistical data is utilized when preparing RIA Report.

5.4 A RIA Report shall be signed by Head of concerned public authority.

6. Extended Regulatory Impact Assessment

6.1 The Committee of Secretaries or concerned public authority may require a sector to prepare an Extended RIA for more detailed analysis for reasons including but not limited to complexities, multi-ministerial dimensions and/or potential impacts which are significantly difficult or high.

6.2 The Committee of Secretaries or concerned public authority shall, for the purpose of rule 6.1, inter alia take the following criteria into account:

a) whether the measure has substantial economic, environmental and/or social impact on a specific sector or sectors; and
b) whether the measure has significant impact on the budget.

6.3 The Extended RIA may be carried out for the whole RIA process or some portion of the RIA process as may be required by the concerned authority.
7. Committee of Secretaries

7.1 The Committee of Secretaries shall be responsible for the proper functioning of the Regulatory Impact Assessment system.

7.2 The Committee of Secretaries shall, *inter alia*, perform the following functions:

a) to endorse the constitution of the RIA Committee
b) to ensure that in the case of Acts and Bills, the RIA Report incorporate comments received or provide justification on the exclusion of comments
c) to validate the quality and substance of the RIA Report for Acts and Bills;
d) to endorse the RIA Rules & Regulations and RIA Guidelines recommended by the RIA Committee
e) to decide on the exemptions to be granted under rule 4.3
f) to review and endorse the Annual Report prepared by the RIA Unit on the performance of the RIA system prior to publication in the Regulatory Registry; and
g) to institute a systematic performance assessment body

8. RIA Committee

8.1 The RIA Committee shall be constituted by the Committee of Secretaries on the recommendation of the RIA Unit. The Heads of public authorities shall, on the direction of the Committee of Secretaries, appoint the members of the RIA Committee. The Committee will be constituted as and when required.

8.2 The RIA Committee shall comprise not more than ten members.

8.3 The RIA Committee shall include at least one member from the private sector

8.4 The RIA Committee shall, *inter alia*, perform the following functions:

a) to mainstream RIA system across the government;
b) to meet periodically to discuss progress, review implementation, share ‘best practices’
c) to review and recommend amendment to the RIA Rules & Regulations and RIA Guidelines, as and when required
d) to provide technical back stopping to the RIA Unit
such other activities as directed by the Committee of Secretaries.

8.5 The RIA Committee shall be accountable to the Committee of Secretaries.

9. Regulatory Impact Assessment Unit

9.1 The RIA Unit shall be a central administrative unit established under one of the existing divisions in the Cabinet Secretariat.

9.2 The RIA Unit shall be accountable to the Committee of Secretaries.

9.3 The RIA Unit shall, *inter alia*, perform the following functions:

a) to be responsible for the day to day running of the Regulatory Impact Assessment system;

b) to update and maintain the Regulatory Registry;

c) to ensure that the public authorities start preparing Regulatory Measures only if it is listed in their Regulatory Forward Plan;

d) to ensure that all RIA Reports are published for ‘notice and comment’ for three weeks in the Registry of RIA Reports;

e) to advice RIA drafters, as and when required;

f) to publish the complete and precise Regulatory Forward Plans, RIA Reports and approved Regulatory Measure;

g) to prepare an Annual Report documenting the degree of compliance by the public authorities of RIA requirements under these Rules and Regulations and RIA Guidelines;

h) to function as a secretariat to the RIA Committee;

i) to plan and coordinate the RIA programmes such as capacity building, outreach mechanisms, sensitization and other such relevant programs; and

j) such other activities as directed by the Committee of Secretaries.

10. Policy and Planning Divisions

10.1 The Policy and Planning Divisions and their equivalent in the public agencies shall, *inter alia*, perform the following functions:

a) to monitor the work done by their respective sectors;

b) to supervise and scrutinize the preparation of the Regulatory Forward Plans and RIA Reports;

c) to review and approve the Regulatory Forward Plans and the RIA Reports;

d) to transmit the approved Regulatory Forward Plans and the RIA
Reports to the RIA Unit for publication;
e) To coordinate and collaborate with the RIA Unit and Royal Institute of Management (RIM) in providing trainings to the RIA drafters.
f) such other activities as directed by the Committee of Secretaries or the RIA Committee.

11. Royal Institute of Management (RIM)

11.1 RIM shall provide RIA training to those trainees undergoing Post Graduate Diploma courses to ensure continuity in future.

11.2 RIM shall conduct RIA training and capacity building for in-service candidates, as planned and coordinated by the RIA Unit.

12. Sector

12.1 A Sector proposing a new Regulatory Measure or amendments to a Regulatory Measure shall prepare its Regulatory Forward Plans in accordance with the RIA Guidelines.

12.2 The sector shall prepare a RIA Report and the text of the draft Regulatory Measure in accordance with the RIA Guidelines.

12.3 The administrative procedure for drafting and enactment of Regulatory Measures shall be as per current norms with the additional requirement of submission of the final RIA Report and a copy of the Certificate of Publication.

13. Regulatory Registry

13.1 The Regulatory Registry shall have three sub registries:

a) Registry of Regulatory Forward Plans containing the list of Regulatory Measures to be prepared by the public authorities in the next six months;

b) Registry of RIA Reports publishing the RIA Report for a period of three weeks for ‘notice and comment’; and

c) Registry of Regulatory Measures (which have undergone the RIA process) publishing the final approved Regulatory Measure.

13.2 All public authorities proposing a new Regulatory Measure or amendments to a Regulatory Measure shall, for a period of three weeks, shall submit to the RIA Unit its RIA Report to be published in the Registry
of RIA Reports for public comments

13.3 All public authorities shall send its approved Regulatory Measure to the RIA Unit for publication in the Registry of Regulatory Measures (which have undergone the RIA process).

13.4 The Regulatory Registry shall be published in an official website of the RIA Unit.

14. Forward Planning of Regulatory Measures

14.1 All sectors in the public agencies shall, under the supervision of their respective Policy and Planning Divisions, prepare its Regulatory Forward Plans.

14.2 All Regulatory Forward Plans of the public agencies shall, in accordance with Annex 1 of these Rules, be submitted to the RIA Unit for publication in the Registry of Regulatory Forward Plans Latest by 31st January and 30th June of each year.

14.3 Regulatory Forward Planning of Regulatory Measures shall help:

a) to identify regulatory measures to be presented to the Committee of Secretaries for consideration in the future parliamentary session;
b) to identify regulatory measures to be presented to the Minister concerned for consideration prior to publication by the minister or agency as a Rules and Regulations;
c) to situate these initiatives within the broader governmental agenda;
d) to identify linkages with other initiatives under way or planned;
e) to select those exceptional Regulatory Measures that will require an Extended RIA; and
f) to demonstrate how these initiatives support the objectives of the Royal Government of Bhutan and its relationship to the policies reported to the Gross National Happiness Commission.

15. Systemic Performance Assessment

15.1 The RIA System shall be assessed every 3 to 5 years by a body instituted by the Committee of Secretaries.

15.2 The Systemic Performance Assessment shall be designed to assess the general improvement that RIA provides to the quality of the regulatory environment of Bhutan.
15.3 The final report of the Systemic Performance Assessment shall be made public.

16. Enforcement

16.1 No Acts and Bills shall be submitted to Parliament, unless it has undergone the RIA process as evidenced by a Certificate of Publication.

16.2 No Rules and Regulations (with exception to those Rules & Regulations formulated based on existing Policies or Acts) shall be adopted, unless it has undergone the RIA process as evidenced by a Certificate of Publication.

17. Authority of interpretation and amendment

17.1 The Committee of Secretaries shall, in case of differences in meaning, be the final authority on the interpretation of these Rules.

17.2 The Committee of Secretaries shall have the power to amend by way of addition, variation or repeal the provisions of these Rules.

17.3 These Rules and Regulations shall be reviewed three years after its adoption or as directed by the Committee of Secretaries.

18. Transitory

18.1 Provisions related to the Regulatory Impact Assessment under these Rules and Regulations shall come into effect three months after the adoption of these Rules and Regulations.

19. Definitions

19.1 In these Rules and Regulations, unless the context otherwise requires:

a) "Bills" means draft Acts.
b) "Bylaws" means rules and regulations adopted by the Public Authority.
c) "Public Authority" means ministries, commissions and agencies.
d) "Regulatory Measure" means Bills, Amendment of Acts, and Rules & Regulations (with exception to those Rules & Regulations formulated based on existing Policies or Acts).
e) "Regulatory Forward Plans" means the report of all forthcoming Regulatory Measures to be prepared by the public agencies and listed
every six months in the Registry of Regulatory Forward Plans.
f) “Regulatory Impact Assessment (RIA)” is an assessment of the likely
effects of a new or proposed amendment of a Regulatory Measure, it
clarifies the desired outcomes of the proposed regulatory amendment
and it also provides for consultation with stakeholders to ensure that
their views and interests are understood during the regulatory process.
g) “RIA Report” means the report summarising the RIA and organised
according to outline prescribed in Annex 2 of these Rules.
h) “Regulatory Registry” means the registry provided in the website of
the RIA Unit.
i) “RIA Guidelines” means a guideline designed to provide a uniform
procedure to prepare a RIA Report.
j) “Sectors” means all departments and divisions in a ministry,
commission or agency.
k) “These Rules” refer to the Rules and Regulations for Regulatory
Annex 1: Regulatory Forward Planning (Maximum 2 pages)

Title of the Regulatory Measure:

Type of Regulatory Measure: (e.g. Act/Bills/Rules/Regulations/)

Lead Ministry/Commission/Agency:

Expected Date Of Adoption Day/Month/Year:

PROBLEM IDENTIFICATION

Describe the problem that the policy/proposal is expected to tackle.

OBJECTIVE OF THE PROPOSAL

What is the overall objective in terms of expected impacts?

OPTIONS

What options are available to reach the objective? What range of alternatives will be considered?

IMPACTS – POSITIVE AND NEGATIVE

On a preliminary basis, what are the likely positive and negative impacts of the selected options, particularly in terms of economic, social and environmental consequences?

Who would be affected?

FURTHER ANALYSIS

What further analysis is proposed? Are specific consultation methods planned? On what basis?
Annex 2: RIA Report Outline (maximum 15 pages)

WHAT ISSUE/PROBLEM IS THE PROPOSAL EXPECTED TO TACKLE?

- What is the issue/problem and is it to be expressed in economic, social and environmental terms including unsustainable trends?
- What are the risks inherent in the initial situation?
- What is (are) the underlying motive force(s)?
- What would happen under a “non action” scenario?
- Who is affected?
- What are the previous initiatives and existing Regulatory Measures that the Government has deployed to solve the issue/problem?

WHAT MAIN OBJECTIVE IS THE PROPOSAL EXPECTED TO REACH?

- What is the overall objective in terms of expected impacts?
- Has account been taken of any previously established objectives?

WHAT ARE THE MAIN OPTIONS AVAILABLE TO REACH THE OBJECTIVE?

- What is the basic approach to reach the objective?
- Which policy instruments have been considered?
- What are the trade-offs associated with the proposed option?
- What “designs” and “stringency levels” have been considered?
- Which options have been discarded at an early stage?

WHAT ARE THE IMPACTS – POSITIVE AND NEGATIVE – EXPECTED FROM THE DIFFERENT OPTIONS IDENTIFIED?

- What are the expected positive and negative impacts of the options selected, particularly in terms of economic, social and environmental consequences, including impacts on management of risks? In particular:
  - What are the likely administrative compliance costs;
  - What are the likely impacts on the Budget?
  - Will the Regulatory Measure create a new institution?
- Are there potential conflicts and inconsistencies between economic, social and environmental impacts that may lead to trade-offs and related policy decisions?
- Are there especially severe impacts on a particular social group, economic sector (including size-class of enterprises) or region?
- What are the impacts over time?

COMPARAIISON OF THE OPTIONS AND JUSTIFICATION OF THE PREFERED OPTION

- What is the final policy choice and why?
- Why was a more/less ambitious option not chosen?
• Have any accompanying measures to maximise positive impacts and minimise negative impacts been taken?

OUTLINE POLICY MONITORING AND EVALUATION

• What are the core progress indicators for assessing if the key objectives of the proposals have been met?
• What is the broad outline of possible monitoring and evaluation arrangements?
• How and when the ex post evaluations will be organised and in which way in order to ensure that the results can be used as input for future impact assessments.

STAKEHOLDER CONSULTATION

• Which interested parties were consulted, when in the process, and for what purpose?
• What were the results of the consultation?