L.N. 204 of 2001

DEVELOPMENT PLANNING ACT
(CAP. 356)

Environmental Impact Assessment Regulations, 2001

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DEVELOPMENT PLANNING ACT
(CAP. 356)

Environmental Impact Assessment Regulations, 2001

IN virtue of the powers conferred by article 60 of the Development Planning Act, the Minister for Home Affairs, on the recommendation of the Planning Authority, and with the concurrence of the Minister for the Environment, has made the following regulations:–

PART I

GENERAL PROVISIONS

Citation and entry into force.

1. (1) The title of these regulations is the Environmental Impact Assessment Regulations, 2001.

(2) These regulations shall come into force on the date of publication of these regulations, other than Part VI, regulations 35 to 42 inclusive, which shall come into force on such date as the Minister for Home Affairs may by notice in the Gazette appoint, and different dates may be so appointed for different provisions and different purposes of these regulations.

Interpretation.

2. (1) In these regulations, unless the context otherwise requires:-

"agency of Government" means a body corporate established by law and a company in which the Government or such body corporate, or a combination thereof, has a controlling interest or which is a subsidiary of such a company; but does not include the Authority;

"aquifer" means all underground freshwater-bearing strata capable of yielding water, and includes groundwater reservoirs, groundwater catchment areas, the waters in geological rock formations, including fissures and fractures, and the structures containing deep fossil waters;

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"the Act" means the Development Planning Act;

"affecting" means will or may have an effect on;

"applicant" means any applicant seeking development permission and includes a department and an agency of Government;

"archaeology" means the study of ancient cultures by the excavation and analysis of physical remains;

"the Authority" means the Planning Authority established under article 3 of the Act and includes any body or other person acting on its behalf under powers delegated by the Authority under the Act;

"certificate" means a certificate of registration issued according to the provisions of sub-regulation (4) of regulation 35 of these regulations;

"Committee" means the Inter-departmental Planning Committee established under subarticle (3) of article 38 of the Act;

"consultant" has the same meaning as is assigned to an environmental impact assessment consultant in sub-regulation (3) of regulation 35 of these regulations;

"consultees" means departments and agencies of Government, local councils or any other body which the Director of Planning might request the consultants to consult;

"contributors" means technical experts that give minimal input to the environmental impact assessment process but do not in any way assess the impacts of the project;

"co-ordinator" means an environmental impact assessment consultant who possesses the appropriate qualifications and has knowledge and training in environmental impact assessment techniques and methods and who is co-ordinating the preparation of an environmental impact assessment, preparing the coordinated assessment and writing the relative environmental impact statement or environmental planning statement, as the case may be;

"conservation" means the management or control of human use of a natural resource or the environment in such a manner that it may yield the greatest sustainable benefit to present generations whilst maintaining its potential to meet the needs and aspirations of future generations; and includes preservation, maintenance, sustainable utilisation, restoration, rehabilitation, reinstatement and enhancement of a natural resource or the environment;

"council" has the same meaning as is assigned to it by article 2 of the Local Councils Act; Cap. 363.

"cultural heritage" means:

(a) monuments - being architectural works, works of monumental sculpture and painting, elements or structures of an archaeological nature, inscriptions, cave dwellings and combinations of features;

(b) groups of buildings - being groups of separate or connected buildings or the spaces between them, singular buildings or their immediate surroundings which are to be conserved because of their architectural character, their homogeneity or their place in the landscape;

(c) sites - being works of man or the combined works of nature and of man, and areas including archaeological sites which are of value from the point of view of history, art, science, culture, aesthetics, ethnography, anthropology and includes also their surroundings;

"cumulative impact" means the contained effect on the environment of two or more projects, or parts of projects, including synergistic effects;

"Department" means the Environment Protection Department;

"department of Government" means any department or other authority of the Government, any Minister or Parliamentary Secretary, any public officer and any member of, employee or agent of, an authority as aforesaid; but does not include an agency of Government;

"developer" means that person who applies for development permission for a public or private project;

"development" has the same meaning assigned to it by subarticle (2) of article 30 of the Act;

"development permission" means a permission to carry out development granted by the Authority either on an application in that behalf or in a development order;

"development order" means an order made under and for the purpose of article 31 of the Act;

"Director of Planning" means the Director of Planning appointed under article 6 of the Act and includes any person acting on his behalf or under his authority;

"Director of the Department" means the Director of the Environment Protection Department and includes any person or body of persons acting on his behalf or under his authority;

"ecology" means the study of the interactions of living organisms with other individuals of their own or of different species, and with their environment;

"ecosystem" means a dynamic complex of plant, animal and micro-organism communities and their non-living environment interacting as a functional unit;

"effects" include:

(a) direct effects, which are caused by an action;

(b) indirect effects, which are caused by an action or actions and are later in time or further removed in distance, but are still reasonably foreseeable; and includes growth-regulating effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems including ecosystems;

(c) ecological effects (including the effects on natural resources and on the components, structures, and functioning of affected ecosystems);

(d) aesthetic, historic and cultural effects, whether direct, indirect, or cumulative;

(e) socio-economic effects (including impacts on incomes, employment, foreign exchange, recreational and educational opportunities, social structure, culture, health, safety, transport and general amenity), whether positive or negative, direct or indirect through the generation of environmental impacts;

(f) those effects resulting from actions which may have both beneficial and detrimental effects, even if on balance the consultants believe that the effect will be beneficial;

(g) secondary, cumulative, short, medium and long term, permanent, temporary, positive and negative effects;

"environment" includes any one of, more of, or a combination of the following:

(a) air, land and water;

(b) plant and animal life;

(c) social, economic and cultural conditions;

(d) any man-made development;

(e) any solid, liquid, gases, odour, heat, light, sound, vibration and radiation;

(f) any natural resource; and

(g) any part or combination of the foregoing and the interrelationship between any two or more of them;

"environmental impact assessment" means the process of identifying, predicting, evaluating and mitigating the biophysical, social, economic and other relevant effects of proposed projects and physical activities prior to major decisions and commitments being made;

"environmental impact statement" means the result of a full environmental impact assessment study presented as a report which describes a development listed in Category I of Schedule I to these regulations and its effects on the environment indicating how these effects have been taken into account;

"environmental interference" means any impairment of living resources, ecosystems, human well-being (including health, safety, cultural, commercial, transportation, recreational and educational activity), material property, amenities or other legitimate uses of a natural resource or the environment, caused, directly or indirectly, by man through polluting substances, ionising radiation, noise, explosions, vibration or other forms of energy, or movement of matter, flora, fauna, diseases, flooding, smothering or other similar means and includes the suppression of all those factors sustaining the environment;

"environmental planning statement" means the result of a limited environmental impact assessment study presented as a report which describes a development listed in Category II of Schedule I to these regulations and its effects on the environment indicating how these effects have been taken into account;

"environmental survey reports" means the original technical studies prepared by the consultants for particular aspects of the environmental impact assessment (for example, ecology, emissions to air, archaeology, etc.);

"fauna" means all types of animals;

"flora" means all types of vegetation;

"geology" means the science of the earth's crust, strata and origin of its rocks;

"habitat" means that set of locations that satisfy the resource requirements of a species and where it can fulfill its ecological role;

"hazardous waste" has the same meaning as is assigned to it in the Environment Protection Act or under regulations made under the said Act or under any other law or regulations which may from time to time replace the said Act; Cap. 348.

"human environment" includes the natural and physical environment and the relationship of people (including employees, neighbours, consumers, and tourists) with that environment;

impacts" has the same meaning as is assigned to the word "effects" in these regulations;

"Junior Impact Assessor" means an environmental impact assessment consultant who possesses the required qualifications in a particular environmental discipline but lacks experience and knowledge in environmental impact assessment techniques and methods;

"landscape" means the characteristics, patterns, forms and structures of the environment, including the traits, patterns, forms and structures of a specific geographic area, its biological composition, its physical environment, its geology, its geomorphology, its palaeontology, its lithostratigraphy and its anthropogenic and social patterns;

"locality" has the same meaning as is assigned to it by article 2 of the Local Councils Act; Cap. 363.

"mitigation" includes:

(a) avoiding the impact altogether by not taking a certain action or part of an action;

(b) minimizing negative impacts by limiting the degree or magnitude of the action and its implementation;

(c) maximizing the positive impacts of developments;

(d) rectifying the impact by repairing, rehabilitating, or restoring the affected environment;

(e) reducing or eliminating the impact over time by conservation operations during the life of the action;

(f) compensating for the impact by replacing or providing substitute resources or environments;

"natural environment" means:

(a) natural features consisting of physical and biological formations or groups of such formations;

(b) geological and physiographical, geomorphological, lithostratigraphical, palaeontological and hydrological formations and precisely delineated areas which constitute the habitat of threatened species of flora and fauna;

(c) natural sites or precisely delineated areas of value from the point of view of science, scenic value, conservation or natural beauty;

"pollution" means the introduction by man, directly or indirectly, of any substance or energy into the environment resulting in deleterious effects of such a nature as to endanger human health, harm living resources, ecosystems and material property, and impair amenities or interfere with other legitimate uses of the environment;

"precautionary principle" means the adoption of, or taking of preventative measures when there are reasonable grounds for concern that threats of serious or irreversible damage to the environment might occur even if there is a lack of scientific certainty; provided that such uncertainty shall not be used as a reason for postponing measures to avoid, reduce, prevent, anticipate or control such threats or damage to the environment;

"project" means the proposed development for which a development permission is being sought;

"project description statement" means a description of the site and the proposed development in sufficient detail to identify the likely effects on the environment and their acceptability under specific policies contained in the Structure Plan and other development plans and in planning policies;

"protected sites and areas" means:

(a) any property scheduled under the provisions of article 46 of the Act;

(b) any property which, though not being scheduled property under the provisions of articles 46 and 48 of the Act, is protected under the provisions of article 47 of the Act by an emergency conservation order;

(c) any tree scheduled under the provisions of article 48 of the Act;

(d) any area, building, site or archaeological remains protected under the provisions of the Environment Protection Act, or any other law which may from time to time replace it; Cap. 348.

(e) any object as defined by article 3 of the Antiquities (Protection) Act, which is protected according to the provisions of that Act or of any other law which may from time to time replace it; Cap. 54.

(f) any urban conservation area designated under the Structure Plan and any other development plan;

(g) any rural conservation area designated under the Structure Plan and any other development plan;

(h) any village core area designated under the Temporary Provisions Schemes; and

(i) any other objects, areas or sites which are protected under the provisions of any other law;

"Register" means the Register of Environmental Impact Assessment Consultants established under sub-regulation (1) of regulation 35 of these regulations;

"Registration Board" means the Registration Board established under sub-regulation (1) of regulation 36 of these regulations;

"scoping" means the process of identifying key issues, significant actions, alternatives and impacts to be considered in an environmental impact assessment;

"Senior Impact Assessor" means an environmental impact assessment consultant who possesses the required qualifications in a particular environmental discipline and knowledge of and experience in environmental impact assessment techniques and methods;

"significantly" requires considerations of both context and intensity:

(a) context - this means that the significance of an action shall be analysed in several contexts such as society as a whole, the surroundings of the project, the affected interests, the site of the project and the distribution of relevant features of archaeological, ecological, scientific, hydrological, geological and scenic value;

(b) intensity - this means the severity of impact and the following elements shall be considered in evaluating intensity:

(i) impacts that may be beneficial, adverse or neutral;

(ii) the degree to which the project affects public health or safety;

(iii) unique or otherwise rare or valuable characteristics of the geographic area which affect its relationship with the natural environment and the cultural heritage;

(iv) the degree to which the project affects the quality of the human environment;

(v) the degree to which the possible effects on the human environment are uncertain or involve unique or unknown risks;

(vi) the degree to which the action may establish a precedent for future actions with potentially significant effects or represents a decision in principle about a future consideration;

(vii) whether the action is related to other actions with individually insignificant but cumulatively significant impacts;

(viii) whether the action threatens a violation of any law or policy-making provision for the protection of the environment;

(ix) whether the action is permanent or reversible;

"treaty" has the same meaning as is assigned to it in article 2 of the Ratification of Treaties Act; Cap. 304.

"use of a natural resource" means any human conduct which, directly or indirectly, takes advantage of the benefits of a natural resource in the form of preservation, exploitation and possible depletion, consumption or otherwise.

(2) The definition of any word or expression in sub-regulation (1) of this regulation shall extend to all grammatical variations and related expressions of the word or expression so defined.

(3) Any word or expression used in these regulations which is defined by article 2 of the Act shall have the same meaning as is assigned to such word or expression by that article of the Act.

PART II

TYPES OF ENVIRONMENTAL IMPACT ASSESSMENT

3. (1) The Planning Authority and the Environment Protection Department shall be the responsible competent authorities for performing the duties as set out in these regulations. Environmental impact assessment.

(2) An environmental impact assessment is intended to identify, describe and assess in an appropriate manner, in the light of each individual proposal for development and in accordance with the provisions of these regulations, the direct and indirect effects of that development on the following factors:

(a) fauna and flora, and the living components of the environment;

(b) soil, water, air, climate, the landscape, and the non-living components of the environment;

(c) the interaction between the factors mentioned in paragraphs (a) and (b) of this sub-regulation;

(d) material assets and the cultural heritage; and

(e) human beings and their interactions with the factors mentioned in paragraphs (a) to (d) of this sub-regulation.

(3) An environmental impact assessment, depending on the type of the development, shall take one of the following forms:

(a) either a full environmental impact assessment; or

(b) a limited environmental impact assessment.

(4) Any development listed under Category I of Schedule I to these regulations shall require a full environmental impact assessment by the preparation of an environmental impact statement, unless the Authority refuses permission as stated in sub-regulation (2) of regulation 4 of these regulations.

(5) Subject to sub-regulation (6) of this regulation any development listed under Category II of Schedule I to these regulations shall require a limited environmental impact assessment by the preparation of an environmental planning statement, unless the Authority refuses permission as stated in sub-regulation (2) of regulation 4 of these regulations.

(6) The Director of Planning may require the applicant, in the case of any application for development permission concerning a development which is not included in Category I of Schedule I to these regulations (even though such development may be included under Category II of Schedule I to these regulations) to prepare a full environmental impact statement if he is of the opinion that significant

impacts are likely to occur and a normal planning application or an environmental planning statement do not provide an adequate basis for evaluating such development.

(7) Notwithstanding the provisions of sub-regulations (4), (5) and (6) of this regulation and subject to sub-regulation (8) of this regulation, the Director of Planning may require the applicant, in the case of any application for a development permission concerning a development which is not included in Categories I or II of Schedule I to these regulations, to prepare an environmental impact statement or an environmental planning statement if the Director of Planning is of the opinion that significant impacts are likely to occur because of factors such as nature, scale and location of the proposal, and a normal development permission application would not provide an adequate basis for evaluating such development.

(8) Notwithstanding the provisions of sub-regulation (5) of this regulation, the Director of Planning in agreement with the Director of Department may exempt an applicant from preparing a limited environmental impact assessment notwithstanding that the development is one which is listed in Category II of Schedule I to these regulations if he is of the opinion that the project description statement presented with the application under the provisions of sub-regulation (1) of regulation 5 of these regulations, has considered environmental issues in a sufficient manner such that the preparation of a limited environmental impact assessment would not add any new information and the Planning Authority has all the necessary information to determine the application. In such a case, a detailed justification as to why a limited environmental impact assessment was not requested shall be provided and shall be made public.

Refusal of development permission where no environmental impact assessment is prepared.

4. (1) Subject to sub-regulation (8) of regulation 3 of these regulations, no development permission shall be granted by the Authority authorising any development listed in Schedule I to these regulations if no environmental impact assessment has been submitted to the Authority according to the provisions of these regulations.

(2) Subject to sub-regulation (8) of regulation 3 of these regulations, the Authority shall refuse development permission in the case of a development that would otherwise require an environmental impact assessment, even though no environmental impact assessment has been submitted to the Authority according to the provisions of these regulations:

(a) where the development is clearly against any approved development plan or planning policy; or

(b) where the development is likely to compromise the preparation of a development plan in the foreseeable future; or

(c) where the effects of a development project are clear and easily understood; or

(d) if the project description statement indicates that the proposed development will have unacceptable environmental impacts.

Project description statement.

L.N. 133 of 1992.

5. (1) Without prejudice to the provisions of regulation 3 of the Development Permission (Method of Application) Regulations and in addition to the requirements mentioned in sub-regulation (2) of that regulation, an application for development permission concerning any development listed in Schedule I to these regulations shall be accompanied by a project description statement.

(2) If an application for development permission is not accompanied by a project description statement as provided in sub-regulation (1) of this regulation and, in the opinion of the Director of Planning, such application is one which requires an environmental impact assessment, the Director of Planning shall inform the applicant that his application requires an environmental impact assessment and that in terms of subarticle (3) of article 36 of the Act, the period of time mentioned in subarticle (1) of article 36 of the Act for the determination of the application shall be suspended until the applicant furnishes the Authority with a project description statement in terms of sub-regulation (1) of this regulation.

(3) A project description statement shall contain the following information:

(a) details of the person wishing to carry out the development;

(b) an explanation of the nature of the opportunities and problems being addressed by the development, and of its general economic, social and environmental objectives;

(c) a description of the general strategy employed, and of the production processes and operational methods to be used, and any alternative methods considered, in reaching the social, environmental and economic objectives of the development;

(d) an indication of the proposed timing of the project and why this timing was preferred;

(e) an indication of whether the project is economically viable;

(f) the location of the proposed development with site boundaries clearly shown on a map;

(g) a brief indication of the alternative uses and locations considered, including suitable alternative locations and sites for the proposed development and alternative uses or arrangement of land uses, on the proposed site;

(h) a description of the physical characteristics including size, scale, design and phasing of the development using models, photographs, diagrams, plans and maps where appropriate;

(i) a description of present land uses and environmental characteristics of the site;

(j) a brief description of surrounding land uses, their nature, their extent and their environmental characteristics;

(k) a description of the services, water, foul water sewers, surface water drainage, including storm water drainage, and energy sources available on site;

(l) estimates of the number of persons to be employed with estimates for each phase of the development;

(m) the nature and quantities of raw materials to be used, and wastes generated during construction and operation; the proposed method of storage or handling of materials and wastes, and machinery needed during both the construction and the operational phases;

(n) access arrangements, parking requirements and parking arrangements on and off the site, during both construction and operation;

(o) proposals for mitigating the negative effects of the development.

Screening.

6. (1) After the project description statement, which shall be in conformity to regulation 5 of these regulations, is submitted by the applicant to the Authority, the Director of Planning shall decide whether

the development is one which is included under sub-regulations (3) to (8) of regulation 3 or regulation 4 of these regulations.

(2) The Director of Planning shall inform the applicant of his decision not later than four weeks after the project description statement prepared in conformity with regulation 5 of these regulations has been received by the Authority and shall give reasons for his decision.

(3) Once the Director of Planning notifies the applicant that his application requires an environmental impact assessment according to Schedule I of these regulations, the applicant shall, within 30 days of notification, write to the Director of Planning to inform him that he accepts his views and shall provide an environmental impact assessment within a time period to be specified by the applicant.

(4) Until the applicant furnishes an environmental impact assessment which complies with the provisions of these regulations, the period of time mentioned in subarticles (1) and (2) of article 36 of the Act for the determination of the application shall be suspended. The said periods shall again commence to run from the date on which the Authority has received the environmental impact statement or environmental planning statement, as the case may be, and the Authority has accepted this statement as being a valid submission in accordance with sub-regulation (4) of regulation 26 of these regulations.

(5) If the applicant does not write to the Director of Planning in accordance with sub-regulation (3) of this regulation, the application shall be processed according to the provisions of sub-regulation (1) of regulation 4 of these regulations.

Informing departments and agencies of Government of the need for an environmental impact assessment.

7. (1) After the expiration of the period mentioned in sub-regulation (3) of regulation 6 of these regulations, the Director of Planning shall inform the Director of the Department, and such departments and agencies of Government which he deems proper, of the receipt of an application for development permission whether with or without a project description statement and that such development requires the preparation of an environmental impact statement or an environmental planning statement, as the case may be.

(2) The Director of Planning shall also inform the applicant in writing of the names and addresses of the departments and agencies so notified.

(3) The departments and agencies so notified shall, if requested by the applicant, enter into consultation with him to determine whether they have in their possession any information which the applicant or

they consider relevant to the preparation of an environmental impact statement or an environmental planning statement and, if they have such information, such departments and agencies of Government shall make it available to the applicant, provided that such departments and agencies of Government shall not be required to disclose any information which, in terms of any law, is considered to be confidential or secret.

(4) A reasonable charge reflecting the cost of making the relevant information available may be made by a body supplying information sought by the applicant, in accordance with sub-regulation (3) of this regulation.

(5) After the expiration of the period mentioned in sub-regulation (3) of regulation 6 of these regulations, the Director of Planning shall publish, in the Government Gazette and in a local newspaper, a list of applications that require an environmental impact assessment according to sub-regulations (4), (5), (6) or (7) of regulation 3 of these regulations.

Managing the preparation of an environmental impact assessment.

8. (1) The applicant shall be responsible for commissioning an environmental impact statement or an environmental planning statement in accordance with the provisions of regulation 10 or regulation 33 of these regulations, as the case may be.

(2) The Director of Planning and the Director of the Department shall provide the applicant with an advisory and quality control function.

(3) If the applicant so wishes, the Director of Planning and the Director of the Department shall also issue a call for tenders on behalf of the applicant for the carrying out of an environmental impact statement or an environmental planning statement. The tender shall be awarded to that consultancy group that presents the most appropriate team of registered consultants for the job in question, giving due consideration to the tender price. The final decision shall lie with the applicant who shall also provide the necessary payments once the consultants are approved by the Director of Planning and the Director of the Department.

(4) Without prejudice to the provisions of sub-regulation (1) of this regulation, in cases where more than one development permission application requiring an environmental impact assessment are being considered in the same locality, the Director of Planning may request that one environmental impact statement or environmental planning statement, as the case may be, be carried out for the projects in question and that the expenses involved in carrying out the

environmental impact assessment shall be split proportionately among the different applicants in relation to the size of the area of their respective development.

PART III

FULL ENVIRONMENTAL IMPACT ASSESSMENT (requiring an Environmental Impact Statement)

Setting terms of reference for an environmental impact statement.

9. (1) Prior to formulating the terms of reference for the environmental impact statement, an appraisal of all foreseeable (or expected) environmental impacts of the development shall be carried out by the Director of Planning and the Director of the Department on the basis of, but not limited to, information contained in the project description statement.

(2) The Director of Planning shall invite relevant government departments and local councils where the development is planned, to provide information, within twenty-one days of notification, on what they wish to see included in the terms of reference.

(3) The Director of Planning shall place an advert in a local newspaper, at the expense of the applicant, inviting the general public to inform him, within twenty-one days of publication of the advert, of issues that they would wish to see included in the terms of reference. The Director of Planning, in agreement with the Director of the Department, may also convene a public meeting, prior to the setting of the terms of reference, when it is considered that the proposed project is of major significance because of its scale, location, hazardous properties or other reasons. The cost of such a meeting shall be borne by the applicant.

(4) Following these consultations the Director of Planning shall draw up the final terms of reference in agreement with the Director of the Department.

(5) The Director of Planning shall communicate a copy of the approved terms of reference to the applicant, to the applicant's architect or consultants and to such other persons he deems proper.

(6) The Director of Planning shall grant access to the public to the final terms of reference of an environmental impact statement.

Commissioning an environmental impact statement.

10. (1) An environmental impact statement shall be prepared by consultants registered under Part VI of these regulations.

(2) The applicant shall select the consultants to prepare an environmental impact statement from the Register and shall communicate the names of the consultants so chosen to the Director of Planning.

Functions of an environmental impact assessment co-ordinator.

11. (1) The environmental impact assessment coordinator nominated by the applicant shall be chosen from among the environmental impact assessment coordinators listed in the Register of Consultants in terms of Part VI of these regulations.

(2) The coordinator shall be responsible for briefing the other consultants, liaising with the applicant and his project design team, the Director of Planning, the Director of the Department; other departments and agencies of Government, and the local council with responsibility for the locality in which the development is being proposed to be executed, and adjacent local councils if the nature or impacts of the project are such that they may affect them.

(3) The coordinator shall prepare a coordinated environmental statement based on the findings and interpretations derived from specialized analyses carried out by the other consultants, other studies and documents compiled by the consultants and the comments made by the persons mentioned in sub-regulation (3) of regulation 21 of these regulations.

Functions of the Director of the Department.

12. (1) The Director of the Department shall perform the following functions:

(a) to provide advice to the Director of Planning whenever a development is exempted from the preparation of an environmental impact assessment in terms of sub-regulation (8) of regulation 3 of these regulations;

(b) to approve, in conjunction with the Director of Planning, the participation of consultants and contributors in the environmental impact assessment process;

(c) to provide the consultants preparing the environmental impact assessment with any advice regarding environmental issues. All correspondence with the consultant shall be forwarded to the Director of Planning;

(d) to participate in the scoping process and in the drawing up of the terms of reference for an environmental impact assessment in conjunction with the Director of Planning;

(e) to certify whether the environmental impact assessment has been properly prepared and is an unbiased reflection of the impacts to be expected from the development;

(f) to advise on official consultations appropriate to the preparation of the environmental impact statement;

(g) to arrange public meetings on the draft environmental impact statement;

(h) to advise the Director of Planning on mitigation measures required to minimise negative impacts of the proposed development;

(i) to monitor and assess the relevance and adequacy of environmental impact assessments; and

(j) to promote knowledge and practice of environmental impact assessment techniques and methods.

Procedures to be followed in the preparation of a full environmental impact assessment.

13. A full environmental impact assessment for development listed under Category I of Schedule I to these regulations shall involve the following procedures:

(a) describing the development including all ancillary facilities;

(b) describing the extent of the existing environment likely to be affected by the proposed development;

(c) identifying and assessing the effects of the proposed development on the existing environment;

(d) designing mitigation measures;

(e) formulating monitoring and auditing requirements; and

(f) preparing a non-technical summary of the environmental impact statement.

Description of the proposed development project.

14. (1) The consultants shall describe the proposed development including :

(a) justification for the proposal;

(b) a description of the physical characteristics and features of the project including production processes (if relevant) and amounts of emissions, wastes and residues expected during both construction and operation;

(c) a description of the financial feasibility of the project. A description of alternative sites considered, and alternative technologies that could be employed during construction and when in operation, shall also be included. In doing so, they may also refer to the project description statement mentioned in regulation 5 of these regulations.

(2) Without prejudice to article 39 of the Act, where the proposed development has a limited life, the after use of the development shall also be described.

15. The consultants shall describe the existing environmental conditions in and around the site in terms of: Description of existing environment.

(a) physical features:-

(i) population;

(ii) flora, fauna and ecosystems (terrestrial and marine), including both habitats and species and, in particular, protected and endangered species and their habitats;

(iii) soil, agricultural quality and produce;

(iv) geology and geomorphology, including palaeontology and noting geological sites;

(v) water and hydrological features;

(vi) air, including prevailing meteorological factors and air quality;

(vii) cultural heritage and protected sites and areas;

(viii) landscape and topography, including the coast and submarine features;

(ix) land use, including recreational uses; and

(x) any other relevant environmental features;

(b) policy framework:-

(i) the planning policy framework which affects the development shall also be analysed. Such analysis shall include the relevant planning policies set out in the Act, in development plans and in other planning policies approved under the provisions of the Act, the Environment Protection Act, or under any other law;

(ii) in particular, but without prejudice to the generality of paragraph (a) of this regulation, the policy review shall relate to:

(a) the site of the proposed development;

(b) the surrounding areas in which impacts may be experienced by the proposed development;

(c) any treaty adhered to by Malta;

(d) policies adopted by any department and agency of the Government which might have a bearing on the development;

(e) protective scheduling or other designations pertaining to the site and its surroundings; and

(f) any other law having a bearing on the development.

Assessment of effects of the development.

16. (1) The probable effects, both of the finished development and during construction, shall be predicted.

(2) All significant impacts of the proposed development shall be considered and assessed including the main effects on:

(a) buildings and other man-made features (including infrastructure);

(b) flora, fauna, ecology and geology including geomorphology and palaeontology;

(c) land;

(d) water;

(e) air and climate;

(f) other indirect and secondary effects associated with the development;

(g) human beings (including health and safety measures).

(3) Hazard and risk assessment of the development shall also be undertaken.

(4) If any of the effects assessed in regulations (1) to (3) of this regulation are envisaged to have transboundary impacts, these should be assessed and clearly stated in the environmental impact statement. Provisions dealing with such impacts shall follow the procedures set in Part V of these regulations.

Mitigation measures.

17. Where adverse effects are identified, the consultants shall state clearly what significance they attribute to these effects and the mitigation measures they propose to be incorporated in the development and evaluate their effectiveness.

Monitoring requirements.

18. (1) The consultants shall devise a scheme to monitor the impacts of the development which may arise during the construction and operational phases.

(2) The consultants shall, subject to approval being granted by the Director of Planning and the Director of the Department, also identify which records the applicant shall keep for the purpose of monitoring the environmental impacts of the development.

(3) The Authority and the Department shall have access to any such records both during the construction and operational phases of the development.

Modification of the specific terms of reference set for each environmental impact assessment by the Authority.

19. (1) Notwithstanding the provisions of regulations 13 to 18 of these regulations, the Director of Planning may, in agreement with the Director of the Department, modify the specific terms of reference set out for an environmental impact assessment in these regulations according to the planning and environmental considerations of each and every development.

(2) Any amendments to the terms of reference shall be communicated to all government departments and local councils consulted in terms of the provisions of sub-regulation (2) of regulation 9 of these regulations.

(3) The Director of Planning shall grant access to the public to any amended terms of reference according to the provisions of sub-regulation (6) of regulation 9 of these regulations.

Draft environmental impact statement - contents.

20. (1) The consultants shall first prepare:

(a) a draft environmental impact statement which shall:

(i) cover all the topics specified in the terms of reference issued by the Director of Planning and the Director of the Department;

(ii) be presented in an intelligible form;

(iii) be in the English language; and

(b) contain a non-technical summary which shall be a separate document presented in both the Maltese and English languages.

(2) The analysis of the impacts on the environment shall be presented in summary, chart, tabular or pictorial format and in a descriptive manner.

(3) The various techniques and methods used in the analysis and predictions shall be included in the environmental impact statement. All assumptions and the reasoning behind such assumptions shall also be included.

(4) The original environmental survey reports shall be attached to the environmental impact statement.

(5) An indication of any difficulties, including technical and other difficulties, encountered by the consultants in compiling the required information shall also be included.

(6) All references to published works and sources of information shall be duly acknowledged.

(7) The various reports constituting the environmental impact statement shall be written in co-ordination with one another and shall be presented in a coherent manner.

(8) The consultants shall ensure the professional integrity, including scientific integrity, of the discussions and analyses in environmental impact statements.

(9) Where the consultants are evaluating reasonably foreseeable significant adverse effects on the environment and there is incomplete or unavailable information, the consultants shall always make clear that such information is lacking or incomplete.

(10) If the incomplete information referred to in sub-regulation (9) of this regulation is essential to a reasoned choice among alternatives and the overall costs of obtaining it are not exorbitant, the consultants shall include the information in the environmental impact statement.

(11) If the information relevant to reasonably foreseeable significant adverse impacts cannot be obtained because the overall costs of obtaining it are exorbitant or the means to obtain it are not known, the consultants shall include within the environmental impact statement:

(a) a statement that such information is incomplete or unavailable;

(b) a statement of the relevance of the incomplete or unavailable information to evaluating reasonably foreseeable significant adverse impacts on the environment;

(c) a summary of existing credible scientific evidence which is relevant to evaluating the reasonably foreseeable significant adverse impacts on the environment; and

(d) the consultants' evaluation of such impacts based upon theoretical approaches or research methods generally accepted in the scientific community.

(12) For the purposes of this regulation, "reasonably foreseeable" includes impacts which have major or catastrophic consequences, even if their probability of occurrence is low, provided that:

(a) the analysis of the impacts is supported by credible scientific evidence;

(b) it is not based on pure conjecture; and

(c) is within the rule of reason.

(13) Wherever the available information is deemed by the Director of Planning to be insufficient for acceptable determination of the application and wherever the risk factor or hazard factor or both are

deemed to be too high, he shall, notwithstanding sub-regulations (1) to (4) of this regulation, adopt the precautionary principle.

Consultation stage.

21. (1) After preparing a draft environmental impact statement and before preparing a final environmental impact statement, a consultation stage shall take place.

(2) The consultants shall submit copies of the draft environmental impact statement to the Director of Planning and to the Director of the Department and a copy or part thereof to any other department or agency of Government as the Director of Planning might request. The consultants shall inform the Director of Planning of the name of every body whom they have so served, of the date of service and, where they have not served a copy of the whole of the draft environmental impact statement, of which part of the copy that was served.

(3) The Director of Planning shall also request the comments of the Director of the Department and of any other department and agency of Government which he may deem relevant for the purpose.

(4) The Director of Planning shall establish a time limit within which the comments mentioned in sub-regulation (3) of this regulation shall be received by him. Such time limit shall not be less than thirty days from the date of receipt of the draft environmental impact statement by the respective department or agency of Government. Should no comments be received within the stipulated period the Director of Planning shall assume that the consultees have no comments to submit.

(5) Comments on the draft environmental impact statement shall be as specific as possible and may address the adequacy of the draft environmental impact statement, the merits of the alternatives discussed, or any combination thereof.

Review of the draft environmental impact statement.

22. (1) The draft environmental impact statement shall be reviewed by the Director of Planning and the Director of the Department and shall be assessed against the terms of reference, the quality of the data used and the objectivity of analysis for the prediction of impacts. Comment may also be made on the suitability of the mitigation measures proposed and on any other matter that is deemed by the Director of Planning or the Director of the Department to be rellevant.

(2) The Director of Planning and the Director of the Department shall specify in their comments whether they need additional information, what information they need and, where relevant, the level of detail required. The Director of Planning may require an applicant to produce such evidence as he may reasonably call for to verify any information in his environmental impact statement.

(3) On completion of the consultation stage and of this review the Director of Planning shall send a report incorporating these and other comments, including any mitigation measures he may deem fit, to the consultants for their consideration and revision of the draft environmental impact statement.

Revision of the draft environmental impact statement.

23. (1) The consultants shall respond to the comments made during the consultation stage by one or more of the following means:

(a) develop and evaluate alternatives not previously given serious consideration by them;

(b) supplement, improve, or modify their assessment;

(c) modify alternatives, including the proposed action;

(d) make factual corrections; or

(e) explain why the comments do not warrant further response by them citing the sources, authorities, or reasons which support the consultants' position.

(2) All substantive comments received on the draft environmental impact statement (or summaries thereof where the response has been exceptionally voluminous) shall be attached to the draft environmental impact statement whether or not the comment is thought to merit individual discussion by the consultants in the text of the environmental impact statement.

Certification of the environmental impact statement.

24. (1) On receipt of the consultant's comments or revisions, in accordance with regulation 23 of these regulations, the Director of Planning shall review the draft environmental impact statement as amended and request the Director of the Department to certify it.

(2) The Director of the Department shall consider whether the statement has been satisfactorily compiled, prepared in a professional manner, is without bias and adequately meets the terms of reference. If he is satisfied with the statement he shall certify it accordingly and inform the Planning Authority, the consultants and all the consultees.

(3) If the Director of the Department does not issue a certificate as mentioned in sub-regulation (2) of this regulation, the Authority shall refuse to accept the statement until the consultants would have abided by the directions given to them by the Director of the Department.

(4) On certification of the environmental impact statement by the Director of the Department according to sub-regulation (2) of this regulation, the applicant shall comply with sub-regultions (5), (6), (7) and (8) of this regulation.

(5) The applicant shall publish in at least one daily newspaper in the English language and in at least one daily newspaper published in the Maltese language, a notice (as specified in Schedule II) stating:

(a) his name and that he is the applicant for development permission;

(b) the date on which the application was validated;

(c) the address or location and the nature of the proposed development;

(d) that a copy of the application and of the plans and other documents submitted with it together with a copy of the draft environmental statement may be inspected by members of the public at reasonable hours;

(e) an address at which those documents may be inspected and the latest date on which they shall be available for inspection (being a date not less than fourteen days later than the date on which the notice is published);

(f) an address (whether or not the same as that given under paragraph (e)) at which copies of the environmental statement may be obtained;

(g) that copies may be obtained there so long as stocks last;

(h) if a charge is to be made for a copy, the amount of the charge; and

(i) that any person wishing to make representations about the application, shall make them in writing, before the date named in accordance with paragraph (e), to the Planning Authority.

(6) The applicant shall affix on the land a notice (as specified in Schedule II to these regulations) containing the information specified in sub-regulation (5) of this regulation, except that the date named as the latest date on which the documents shall be available for inspection shall not be less than twenty-one days later than the date on which the notice is first affixed.

(7) The notice mentioned in sub-regulation (6) of this regulation shall:

(a) be left in position for the whole duration of the consultation period specified in sub-regulation (6) of this regulation and in any case, for not less than seven consecutive days; and

(b) be affixed firmly to some object on the land and sited and displayed in such a way as to be easily visible to, and readable by, members of the public without going on to the land.

(8) Following the elapse of the period specified in sub-regulation (7) of this regulation, the applicant shall submit the following documentation to the Planning Authority:

(a) a copy of the notice mentioned in sub-regulation (5) published in the newspapers mentioned in the said sub-regulation; and

(b) a certificate by or on behalf of the applicant which states that he has affixed a notice on the land in compliance with this regulation and when he did so, and that the notice was left in position for not less than seven days , or that, without any fault on his part, it was removed, obscured or defaced before seven days had elapsed and he took reasonable steps for its protection or replacement specifying the steps taken.

(9) If any person issues a certificate which purports to comply with the requirements of paragraph (b) of sub-regulation (8) of this regulation, and which contains a statement which he knows to be false or misleading in a material particular, or recklessly issues a certificate which purports to comply with those requirements and which contains a statement which is false or misleading in a material particular, he shall be guilty of an offence and the provisions of sub-article (1) of article 56 of the Act shall apply.

(10) A date for the public hearing required in terms of regulation 25 shall only be set once the applicant submits the documentation required in sub-regulation (8) of this regulation.

Public hearing.

25. (1) After having certified the draft environmental impact statement the Director of the Department shall arrange for a public hearing to take place, at which concerned members of the public may comment on the environmental impact statement and express their views on the impact of the proposed development.

(2) The Director of the Department shall inform the public as aforesaid and shall also inform the public of the day, time and place where the public hearing shall take place by publishing a notice in the Gazette and in the local newspapers. All reasonable expenses incurred by the Director of the Department for organising the public hearing and publishing the said notices shall be borne by the applicant.

(3) At least fifteen days' notice but not more than thirty days' notice shall be given by the Director of the Department of the public hearing.

(4) The Director of the Department shall inform the Director of Planning, the consultants and the persons mentioned in sub-regulations (2) and (3) of regulation 21 of these regulations of the date, time and place of the public hearing giving at least fifteen days advance notice.

(5) A copy of the draft environmental impact statement shall be made available for public inspection at the Department and the Authority, and may be inspected throughout the period stipulated in sub-regulation (3) of this regulation on such days and during such times as the Director of the Department and the Director of Planning deem proper.

(6) A copy of the draft environmental impact statement shall be submitted to the local council which is responsible for the locality where the development will be executed and adjacent local councils, if affected, so that it may be made available for public inspection throughout the period stipulated in sub-regulation (3) of this regulation.

(7) The Director of the Department shall chair and regulate the proceedings of the public hearing according to such procedure as he may deem fit, but he shall give every person present in the hearing who wishes to make any submissions the opportunity to air his views on the environmental implications of the proposed development.

(8) The views of the public as expressed during the public hearing and in any written comments made by the public before, during or up to seven days after the public hearing, shall be recorded by the Director of the Department. All the comments received or recorded shall be collated into a report by the Director of the Department. This report shall be forwarded to the Director of Planning, to the applicant and to his consultants not later than two weeks after the date of the public hearing. A summary of all the comments shall be presented in an appendix to the final environmental impact statement.

Submission of the final environmental impact statement to the Authority.

26. (1) Prior to the submission of the final environmental impact statement to the Authority, the consultants shall further revise the environmental impact statement and the proposed development in the light of the written comments made by the public and the comments made during the public hearing.

(2) The final environmental impact statement, including environmental survey reports, as revised if so required, shall be submitted by the co-ordinator to the Authority together with the certificate mentioned in sub-regulation (2) of regulation 24 of these regulations.

(3) The consultants may place discussion of methodology in an appendix.

(4) The applicant shall ensure that his application conforms to the recommendations made in the environmental impact statement. The application shall not be determined until the Director of Planning is satisfied that the development application conforms to the said recommendations and the provisions of subarticle (3) of article 36 of the Act shall apply. If not, the Director of Planning shall request the applicant to comply with the said recommendations.

(5) The co-ordinator shall submit such number of copies of the environmental impact statement to the Director of Planning as the latter may reasonably establish. The co-ordinator shall also submit a copy to the Director of the Department.

(6) The Planning Authority shall be empowered to reproduce the contents of the environmental impact statement, once this is submitted, at its own discretion.

Sale of final environmental impact statements.

27. (1) An applicant for development permission who submits an environmental statement in connection with his application shall ensure that a reasonable number of copies of the statement are available at the address named in the notices published or affixed pursuant to paragraph (f) of sub-regulation (5) of regulation 24 of these regulations, as the address at which such copies may be obtained.

(2) Copies of the final environmental impact statement shall be made available for sale to interested persons by the Director of Planning.

(3) The price of the said statement shall not exceed the cost of their printing and distribution. Such charges shall be levied from any member of the public for a copy of an environmental statement made available in accordance with sub-regulation (1) of this regulation.

List of consultants.

28. (1) The environmental impact statement shall list the registration number and the names of the consultants and contributors responsible for the preparation of the environmental impact statement, environmental survey reports, appendices, non-technical summary and any other component of the statement.

(2) The consultants who are responsible for a particular analysis, including analysis in the environmental survey reports, shall be identified.

(3) All consultants and contributors employed in the environmental impact assessment shall sign a declaration stating that the particular study (or part thereof) was solely carried out by them. This signed declaration shall be included with each environmental survey report included with the environmental impact statement.

Conflict of interest.

29. (1) In the interests of fairness, objectivity and the avoidance of bias, all consultants shall be required to sign, and abide by, a declaration that they have no personal or financial interest in the proposed development.

(2) The Director of Planning and the Director of the Department shall not approve consultants, groups of consultants or consultancy firms that are in any way associated with any company, association or grouping that has any direct or indirect personal, professional or financial interest in the proposed development.

(3) The Director of Planning and the Director of the Department shall not approve any environmental impact statement or environmental planning statement produced by a consultant or group of consultants, one or more of whom does not comply with the provisions of sub-regulations (1) or (2) of this regulation.

Incorporation by reference.

30. (1) Consultants shall incorporate material into an environmental impact statement by reference when the effect will be to cut down on bulk without impeding the review by the public during the public participation process or by the Director of Planning, the Authority, the Director of the Department, any department and agency of Government, by the council which is responsible for the locality where the development is to be executed, or by adjacent councils.

(2) The incorporated material shall be cited in the statement and its content briefly described.

(3) No material may be incorporated by reference unless it is reasonably available for inspection by potentially interested persons within the time allowed for comment prescribed under sub-regulation (4) of regulation 21 of these regulations.

(4) Material which is based on proprietary data which is itself not available for review and comment shall not be incorporated by reference.

Identification of other permits the applicant might need if development permission is granted.

31. (1) The environmental impact statement shall list all permits, licences and other forms of authorisation which must be obtained by the applicant in terms of any other law from any department or agency of Government in implementing the development if development permission is granted.

(2) If the consultants are uncertain whether such authorisation as mentioned in sub-regulation (1) of this regulation is necessary, they shall so indicate in the environmental impact statement.

Public reference room.

32. (1) The Authority shall keep a copy of each draft environmental impact statement, the final environmental impact statement and any documents connected therewith in a public reference room.

(2) A copy of any environmental planning statement submitted to the Authority under the provisions of Part IV of these regulations shall also be kept in the public reference room.

(3) Access to the documents mentioned in sub-regulations (1) and (2) of this regulation shall be given to any person during such reasonable times as the Authority may determine.

PART IV

LIMITED ENVIRONMENTAL IMPACT ASSESSMENT (requiring an Environmental Planning Statement)

Setting the terms of reference for an environmental planning statement.

33. (1) Prior to formulating the terms of reference for the environmental planning statement, an appraisal of all foreseeable (or expected) environmental impacts of the development shall be carried out by the Director of Planning and the Director of the Department on the basis of, but not limited to, information contained in the project description statement.

(2) The Director of Planning shall invite relevant government departments and local councils where the development is planned, to provide information, within twenty-one days of notification, on what they wish to see included in the terms of reference.

(3) Following these consultations the Director of Planning, in agreement with the Director of the Department, shall draw up the final draft of the terms of reference.

(4) The Director of Planning shall communicate a copy of the approved terms of reference to the applicant, architect and to such other persons he deems proper.

(5) The provisions of regulations 10 to 32 other than paragraph (g) of sub-regulation (1) of regulation 12, sub-regulation (3) of regulation 19, sub-regulation (10) of regulation 24, and regulation 25 of these regulations shall *mutatis mutandis* apply to an environmental planning statement, provided that an environmental planning statement shall be more limited in nature than an environmental impact statement.

PART V

TRANSBOUNDARY EFFECTS

Procedures to be followed when a project is likely to have transboundary impacts.

34. (1) Where the Minister is aware that a project is likely to have significant effects on the environment in another State, or where a State likely to be significantly affected so requests, the Minister shall send to the affected State as soon as possible and not later than when the public is informed in terms of sub-regulation (5) of regulation 7 of these regulations, the following:

(a) a description of the project, together with any available information on its possible transboundary impacts;

(b) relevant information regarding the environmental impact assessment procedure;

(c) information on the nature of the decisions which may be taken;

and shall give the affected State a reasonable time in which to indicate whether it wishes to participate in the environmental impact assessment procedure.

(2) If the affected State which receives information indicates to the Minister that it intends to participate in the environmental impact

assessment procedure, the Minister shall, if he has not already done so, send to the affected State the information gathered regarding the proposed development.

(3) The affected State shall enter into consultations with the Minister concerning, inter alia, the potential transboundary effects of the project and the measures envisaged to reduce or eliminate such effects and shall agree on a reasonable timeframe for the duration of the consultation period.

(4) The affected State may arrange for the information to be made available, within a reasonable time, to the relevant authorities and the public concerned in the territory of such affected State which is likely to be significantly affected; and, within the timeframe established through the provisions of sub-regulation (3) of this regulation, the affected State, shall forward its opinion to the Minister who shall in turn forward such opinion to the Authority.

(5) The transmission of information to the affected State, concerning potential transboundary impacts, and the receipt of information by such affected State, shall be subject to the limitations contained in any law in force in Malta.

(6) The Minister shall provide to the affected State the final decision on the proposed project along with the reasons and considerations on which it was based.

(7) When, following monitoring of a development with potential transboundary impacts, significant adverse transboundary impacts or factors that may result in such an impact are discovered, the Minister shall immediately inform the affected State and enter into consultations on the necessary measures that may be undertaken to reduce or eliminate such impact.

(8) In the exercise of his duties under this regulation, the Authority, the Director of Planning and the Director of the Department shall furnish the Minister with all such documentation and information as he may request.

PART VI

REGISTER OF CONSULTANTS

Register of Environmental Impact Assessment Consultants.

35. (1) The Authority shall keep and make available for public inspection at such reasonable times as it may determine, a Register of Environmental Impact Assessment Consultants.

(2) The Register shall be divided into Parts. Each Part shall list those consultants who are competent in a particular discipline, provided that where a person is competent in more than one particular discipline he shall be registered under both or more such disciplines.

(3) The Register shall also be divided into categories of environmental impact assessment consultants, namely a Junior Impact Assessor, a Senior Impact Assessor and an Environmental Impact Assessment Co-ordinator.

(4) The Authority shall note the issue of a certificate of registration in the Register together with the relevant discipline or disciplines in which he is competent and shall also note therein all suspensions, cancellations and reinstatements of those certificates.

(5) No person may act as an impact assessor or environmental impact assessment co-ordinator unless he is registered in the Register of Environmental Impact Assessment Consultants.

(6) The Authority shall refuse to accept an environmental impact statement or an environmental planning statement where a person who is not registered in the Register has participated in the preparation of the relevant environmental impact assessment.

(7) Notwithstanding the provisions of sub-regulation (6) of this regulation, the Director of Planning may, where he deems it necessary and in conjunction with the Director of the Department, accept the contribution by a non-registered person:

(a) in relation to a specific discipline not covered in the Register, provided that that person is, in the view of the Director of Planning and the Director of the Department, suitably qualified to make such a contribution and his participation has been agreed in writing prior to the commissioning of the environmental impact assessment;

(b) where that person has been responsible for undertaking research including the gathering and collation of data, under the supervision of a registered consultant participating in the relevant environmental impact assessment, but has not been involved in the assessment of impacts.

Registration Board.

36. (1) The Minister responsible for planning, with the concurrence of the Minister responsible for the environment, shall appoint a Registration Board that shall be responsible for evaluating applications for registration in the Register.

(2) Decisions on applications for registration shall be taken by a Registration Board composed of a minimum of three persons and a maximum of five persons, including a representative from the Authority and a representative from the Department. All other members of the Registration Board shall be independent members who are not involved in any way in the preparation of environmental impact assessments, one of whom shall act as the chairperson of the Registration Board.

(3) The Registration Board shall assess applications for registration and shall prepare a list of persons who, in the opinion of the Registration Board, meet the requirements for registration and are therefore to be issued with a certificate of registration. The Registration Board shall give reasons for their decisions.

(4) The decision of the Registration Board to grant or to refuse an application for registration in the Register shall be notified in writing to the applicant without delay.

(5) The Registration Board may direct the Authority to update the Register at such regular intervals as it may deem fit by the inclusion of other disciplines in the Register, which disciplines might have in the meantime evolved.

Registration.

37. (1) Any person may apply in writing on the appropriate form to the Registration Board to be registered in the Register.

(2) The application for registration shall include the following information:

(a) the name, surname, education, qualifications and office address of the applicant for registration;

(b) a list of any relevant work by the applicant;

(c) a detailed *curriculum vitae* (which is to include details of the person's training, experience and knowledge in environmental assessment techniques and methods);

(d) an indication of the particular environmental discipline for which the person is applying for registration in.

(3) The application for registration shall be accompanied by the appropriate fee as set out in Schedule III of these regulations.

Certificate of registration.

38. (1) The Registration Board shall register a person in the Register if it is satisfied that the said person:

(a) has appropriate qualifications;

(b) has experience and knowledge of environmental assessment techniques and methods; and

(c) has experience in one or more relevant disciplines.

(2) Certificates issued to eligible persons shall be valid for one year but may be renewed by the registration Board upon payment of the relevant renewal fee according to Schedule III to these regulations, except where, in the opinion of the Registration Board, the provisions of regulation 40 have been contravened.

(3) Notwithstanding the provisions of sub-regulation (1) of this regulation, the Registration Board may grant a temporary certificate valid for one year to any person who, in the opinion of the Registration Board, has the appropriate qualifications but does not have sufficient experience in the relevant discipline or in environmental impact assessment techniques and methods. Temporary certificates shall only be issued for a maximum of two years.

(4) The Authority and the Department shall endeavour to organise training courses in environmental impact assessment techniques and methods. All junior impact assessors and persons issued with a temporary certificate shall be obliged to undertake this training course as a pre-requisite to obtaining or confirming their registration.

Contents of certificate.

39. The certificate of registration shall contain the following information:

(a) the name, surname and identity document number or other means of identification of the consultant;

(b) the date when the certificate is issued;

(c) the discipline in which the consultant is considered by the Registration Board as having an acceptable level of expertise.

Cancellation of certificate.

40. (1) The Registration Board may cancel any certificate granted under the provisions of this Part of these regulations when the holder of that certificate:

(a) is found guilty by a court of criminal jurisdiction of a crime being a crime committed through imprudence, carelessness, unskillfulness in an art or profession, or non-observance of regulations; or

(b) is found guilty by a court of criminal jurisdiction of any offence under the provisions of the Act or of any regulations made thereunder; or

(c) has, in the opinion of the Authority, the Director of Planning, the Director of the Department and the Registration Board, submitted substandard or deliberately misleading work in an environmental impact assessment; or

(d) has participated in the preparation of an environmental impact assessment when he was not registered in the Register; or

(e) was the recipient of a certificate issued under the provisions of this Part of these regulations based on information given by the applicant which is false or misleading; or

(f) fails to pay the yearly renewal fee.

(2) Notwithstanding the provisions of sub-regulation (1) of this regulation, the registration Board may opt for suspension, rather than cancellation of the certificate, in the circumstances specified in paragraphs (d) and (f) of sub-regulation (1) of this regulation.

(3) If a person participates in the preparation of an environmental impact assessment without being registered in the Register, he shall subsequently be barred from registering or participating in any environmental impact assessments in Malta for a period to be decided by the Registration Board which period shall in no case be less than three years.

Offences.

41. (1) Any person who for the purposes of obtaining the certificate for registration in the Register gives any wrong information or otherwise acts in a deceitful or fraudulent manner shall be guilty of an offence and shall, on conviction, be liable to a fine (*multa*) not exceeding one thousand liri.

(2) Any person who, not being the holder of a certificate, assumes or uses the designation "Environmental Impact Assessment Consultant", "Environmental Impact Assessment Co-ordinator", "Senior Impact Assessor" or "Junior Impact Assessor" or in any manner indicates that he is entitled to prepare an environmental impact assessment shall be guilty of an offence and shall, on conviction, be liable to a fine (*multa*) not exceeding five hundred liri and in respect of a second or subsequent offence to a fine (*multa*) not exceeding one thousand liri.

(3) For the purposes of sub-regulation (2) of these regulations, the use on any card, letterhead, sign, board, plate, advertisement or other written, printed or engraved device, instrument or document, of the words "Environmental Impact Assessment Consultant", "Environmental Impact Assessment Co-ordinator", "Senior Impact Assessor" or "Junior Impact Assessor", in relation to a name, shall be sufficient evidence of the knowledge of such use by the person in relation to whose name the said words are used, unless such person proves that the use of such words was made without his knowledge and that upon becoming aware of the use he took adequate steps to stop it.

(4) The offences and penalties mentioned in this regulation shall be without prejudice to any other offences and penalties in terms of the Act or any other law.

Interpretation of Part VI of these regulations.

42. For the purposes of this Part of these regulations "person" includes a person who is not a citizen of Malta but does not include a body of persons.

PART VII

ENFORCEMENT

Implementing the decision to grant development permission.

43. (1) When development permission has been granted by the Authority for a development listed in Schedule I to these regulations, the Authority shall monitor the implementation of the said development both during the construction and the operational phases.

(2) The Authority may:

(a) include appropriate, and clearly specified conditions in the development permission;

(b) establish the period within which the construction phase of the development shall be completed together with any planning obligations, conditions or penalties which it may deem fit to impose for non-completion or unsatisfactory completion of the development and associated facilities within the established period;

(c) request the applicant to provide a guarantee by a bank or credit institution licensed in Malta according to the provisions of the Banking Act, or any other law which may from time to time replace it, by which the said bank or institution shall bind itself on behalf of the applicant, without prejudice to any future action or remedy which such bank or institution may exercise against him, to effect payment to the Authority of any sum to be established by

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way of penalty in the development permission if the development is not completed in accordance with the specified conditions within the period established in the development permission and for any breach of any condition imposed in the development permission or of any planning obligation entered into by the applicant. The said guarantee shall not be less than the greater of the cost of reinstating the area to an acceptable condition, or the cost of re-instatement and repair of damages arising from non-compliance with conditions imposed in the development permission;

(d) in the event that after a development permission is issued the development is not carried out in accordance with the permission, or is otherwise causing damage to the environment or to the infrastructure, demand, as a condition of the continuance of the permission, that the person in whose favour the permission is issued should provide a bond in favour of the Authority in order to guarantee payment in respect of damages which may be caused to the environment or to the infrastructure, in terms of subarticle (5) of article 34 of the Act;

(e) request that the person or company responsible for the development is covered with an insurance policy against damage to environmental resources; and

(f) make available to the public at such intervals as the Authority deems proper the results of monitoring carried out throughout the construction or operation phase of the project, whether such monitoring has been carried out by the Authority itself or by the developer as a direct result of a condition in the development permission.

PART VIII

MISCELLANEOUS PROVISIONS

Miscellaneous provisions.

44. (1) For the avoidance of doubt, it is hereby declared that:

(a) when the Director of Planning requests the applicant, his architect, agent or the consultants to make certain changes in the project design; or

(b) when the Director of Planning gives any guidance which he may deem fit in the circumstances;

this in no way implies that the Director of Planning is approving the development or will recommend to the Authority that it should approve the development.

(2) Agreement on the terms of reference for an environmental impact statement or an environmental planning statement is not to be construed in any way as evidence in favour of the proposed development.

(3) In arriving at a decision, the Authority shall not be bound by the conclusions reached in an environmental impact statement or an environmental planning statement, as the case may be. However, the Authority shall give due regard to the conclusions reached in the environmental impact statement or in the environmental planning statement, as the case may be, when arriving at a decision. Whether it accepts or does not accept the conclusions reached by the said impact statement or planning statement, as the case may be, the Authority shall give detailed reasons therefor.

(4) Where, after environmental information has been taken into consideration, an application for development listed in Schedule I to these regulations is determined by the Authority, the Authority shall:

(a) inform the public of the decision, by publishing a notice in a newspaper, or by such other means as are reasonable in the circumstances; and

(b) make available for public inspection, at all reasonable hours and free of charge, a statement containing:

(i) the content of the decision and any conditions attached thereto;

(ii) the main reasons and considerations on which the decision is based; and

(iii) a description, where necessary, of the main measures to avoid, reduce, and if possible, offset the major adverse effects of the development.

(5) The provisions of these regulations shall not affect the obligation of the Government of Malta to respect the limitations imposed by any law in force in Malta with regard to commercial and industrial confidentiality, including intellectual property, and the safeguarding of the public interest.

PART IX

TRANSITORY PROVISION

Transitory provision.

45. Any application for development permission which concerns any development listed in Schedule I to these regulations pending on the date of coming into force of these regulations shall be regulated according to the provisions of these regulations, provided that:

(a) any environmental impact assessment carried out or in the process of being carried out by consultants who are not registered in the Register shall be deemed to have been made in accordance with the provisions of those regulations regulating the registration of consultants in the Register;

(b) participation by any person in an environmental impact assessment prior to the coming into force of these regulations shall not be deemed to constitute an automatic acceptance of an application made by such person for registration in the Register; and

(c) environmental impact assessments or environmental planning statements the terms of reference whereof have already been communicated to the applicant prior to the entry into force of these regulations shall, as far as possible, comply with the provisions of these regulations unless the Director of Planning specifically exempts in writing the applicant from any provisions of these regulations with regards to a particular development and this may be done after the Director of Planning would have taken into consideration the advanced stage arrived at in the environmental impact statement or environmental planning statement, as the case may be.

SCHEDULE I

Projects which require an Environmental Impact Statement or an Environmental Planning Statement

1	GENERAL CATEGORY OF PROJECT		
1.1	**Category I Projects**		
1.1.1	The carrying out of development on land or on sites not designated for such purposes in an approved development plan or development brief, where the proposed development involves: (i) the use of 5 ha of land or more; or (ii) the construction of a building or installation with ground cover of more than 10,000m^2.		
2	INFRASTRUCTURE PROJECT		
2.1	**Highway and Road Construction**		
2.1.1	**Category I Projects**	2.1.2	**Category II Projects**
2.1.1.1	Construction of a four-lane highway.	2.1.2.1	Other roads with a carriageway width of more than 3.5m and not being a road for which the design is approved in a development plan if the road is : (i) more than 1 km in length; or (ii) within 100m of a protected site.
2.1.1.2	Construction of a road with a carriageway width of 7.5m or more and not being a road for which the design is approved in a development plan, if the road is : (i) 2 km or more in length; or (ii) more than 300 dwellings or an area designated for more than 300 dwellings are within 100m of the centre line of the proposed road; or (iii) where the road passes through or within 100m of a protected site.	2.1.2.2	Construction of bridges outside development zones.
2.1.1.3	Construction of a tunnel over 1m in diameter, if the tunnel is: (i) over 1 km in length; or (ii) passing beneath or within 100m of a protected area, or (iii) passing through or within 100m of an aquifer protection zone.		
2.2	**Airports**		
2.2.1	**Category I Projects**	2.2.2	**Category II Projects**
2.2.1.1	Construction of a new airport/airstrip, or heliport.	2.2.2.1	Expansion of an airport/airstrip or heliport not being a development falling within 2.2.1.1 and 2.2.1.2

2.2.1.2	Significant expansion or development of an existing airport which includes an extension to a runway or taxi-way by 500m or more, new terminal buildings, or other major developments.		
2.3	**Ports**		
2.3.1	**Category I Projects**	**2.3.2**	**Category II Projects**
2.3.1.1	Construction of a port for handling vessels over 1000 tonnes.	2.3.2.1	Construction or extension of a port installation, dry dock, bilge water recycling station (ship tank cleaning), permanent moorings for ships over 25,000 tons, fishing harbour or yacht marina (with a capacity of less than 200 boats) not being development falling within 2.3.1.1 and 2.3.1.2
2.3.1.2	Construction of a yacht marina for more than 200 vessels.		
2.3.1.3	Construction of a breakwater, wave-breaker or coastal defences.		
2.4	**Other Transport**		
2.4.1	**Category I Projects**	**2.4.2**	**Category II Projects**
2.4.1.1	Construction of a tramway, elevated or underground railway, suspended line or similar line being either: (i) within 100m of a protected site; or (ii) having a length of more than 1km.	2.4.2.1	Other tramways, elevated or underground railways, suspended line or similar structures not covered by 2.4.1.1.
		2.4.2.2	Other major transport facilities e.g. a bus terminal or container depots.
2.5	**Dams and Reservoirs**		
2.5.1	**Category I Projects**	**2.5.2**	**Category II Projects**
2.5.1.1	Construction of a dam which is either: (i) more than 100m long; or (ii) more than 15m high.	2.5.2.1	Construction of a dam or reservoir, not being a development within 2.5.1.1 and 2.5.1.2 and being: (i) a dam of between 25–100m long; or having (ii) a water storage capacity of between 20,000m^3 and 50,000m^3.
2.5.1.2	Construction of a reservoir or other installation for holding or storing water on a long term basis with a capacity of more than 50,000m^3.		

2.6	**Pipelines and Underground Electricity Transmission**		
2.6.1	**Category I Projects**	**2.6.2**	**Category II Projects**
2.6.1.1	Construction of a main transmission pipeline for a liquid (other than water) or a gas; (i) over a distance of 5 km; or (ii) where more than 300 dwellings or a site designated for more than 300 dwellings are within 100m of the route; or: (iii) the route passes through the aquifer protection zone or is within 500m of a bore hole; or (iv) the route passes through a protected site.	2.6.2.1	Construction of an oil or gas pipeline not being a development falling within 2.6.1.1.
2.6.1.2	Construction of an aqueduct or a main trunk sewer with a diameter exceeding 600mm and not utilising an existing right of way: (i) over a distance of 5 km or more; or where (ii) the route passes through a protected site.	2.6.2.2	Construction of an aqueduct or a main sewer not being a development falling within 2.6.1.2 and not utilising an existing right of way: (i) over a distance of 5 km or more; or where (ii) the route passes through a protected site.
		2.6.2.3	Laying an underground electricity cable of 100KV or more and not utilising an existing right of way.
2.7	**Management and Disposal of Wastes**		
2.7.1	**Category I Projects**	**2.7.2**	**Category II Projects**
2.7.1.1	Erection of an installation for incinerating, treating, processing, recycling and destruction of hazardous waste and spent oil.	2.7.2.1	Incinerating, treating (including chemical treatment), processing, recycling and destruction of wastes not being a development falling within 2.7.1.2
2.7.1.2	Erection of an installation for incinerating, treating (inc. chemical treatment), processing, recycling and destruction of other wastes (including hospital and household wastes) with a capacity of 25,000m^3 per year or more.	2.7.2.2	Disposal of household and other industrial and commercial wastes with a capacity of over 15,000m^3 and not being a development falling within 2.7.1.5 or 2.7.1.6.
2.7.1.3	Site for depositing or recycling sludge.	2.7.2.3	Disposal of inert wastes not including household and industrial wastes with a capacity of 100,000m^3 or more.
2.7.1.4	Disposal of chemical or hazardous wastes on or in the ground.		
2.7.1.5	The development of new landfill sites.		

2.7.1.6 Disposal of household and other industrial and commercial wastes with a capacity of 100,000m^3 or more.

2.7.1.7 Disposal of household and other industrial and commercial wastes with a capacity of over 25,000m^3 and where:

(i) more than 300 dwellings or an area designated for more than 300 dwellings are within 200m of the boundaries of the site; or

(ii) a protected site is within 200m of the boundaries of the site; or

(iii) in the aquifer protection zone or within 500m of a bore hole or any other water abstraction point.

NOTE: **As a rule of thumb, 15,000 cubic metres equate approximately to 15,000 tonnes, or to 1000, 20-ton lorry movements (assuming 15 tonnes per 20-ton lorry)**

2.8 Sewage Treatment Plants

2.8.1 Category I Projects

2.8.1.1 A waste water treatment plant with a capacity of 20,000m^3 per day or more.

2.8.2 Category II Projects

2.8.2.1 A waste water treatment plant with a capacity of between 250m^3 per day and 20,000m^3 per day.

2.9 Reverse Osmosis Plants

2.9.1 Category I Projects

2.9.1.1 A Reverse Osmosis or desalination plant with a capacity exceeding 50,000m^3 per day.

2.9.2 Category II Projects

2.9.2.1 A Reverse Osmosis or desalination plant with a capacity of between 10,000m^3 and 50,000m^3 per day.

NOTE: **A Reverse Osmosis or Desalination Plant on the coast is also covered by criteria 4.2 Development on the Coast whichever is the more demanding.**

3	**LAND USE AND BUILT DEVELOPMENT PROJECTS**		
3.1	**Urban Development Projects including Tourist and Recreation Developments**[1]		
3.1.1	**Category I Projects**	**3.1.2**	**Category II Projects**
3.1.1.1	Developments with an area of 10 ha or more.	3.1.2.1	Developments with a site area of more than 3 ha.
3.1.1.2	Developments with a site area of 5 ha or more not being a project defined in an approved development plan or development brief.	3.1.2.2	Developments where more than 300 dwellings, or a site designated for more than 300 dwellings, are within 200m of the site boundary and: (i) the site area is more than 2 ha; or (ii) has a gross floor area of more than 30,000m^2
3.1.1.3	Developments to provide 10,000m^2 gross floor space or more of shops, offices or other commercial uses, and not being a project defined in an approved plan or development brief.		
3.2	**Business Parks**		
3.2.1	**Category I Projects**	**3.2.2**	**Category II Projects**
3.2.1.1	Development of Business Parks where the site is 5 ha or more; or a development where: (i) a manufacturing use is being proposed; (ii) the development may reasonably attract 2500 or more vehicles on any given day.	3.2.2.1	Development of a Business Park with a site area of more than 1 ha.
3.3	**Other Tourism Development** [1]		
3.3.1	**Category I Projects**	**3.3.2**	**Category II Projects**
3.3.1.1	New construction of hotel, holiday village or tourist facility with : (i) a capacity of more than 500 beds; or (ii) to provide gross floor area of more than 20,000m^2; or (iii) a total site area of 5 ha or more.	3.3.2.1	New construction of hotel, holiday village or tourist facility with : (i) a capacity of 60 - 500 beds; or (ii) a gross floor area of more than 2000m^2.
3.3.1.2	New construction of hotel, holiday village or tourist facility not being in a tourism development area in an approved development plan with : (i) a capacity of more than 60 beds; or (ii) a gross floor area of more than 2000m^2.		

[1] The most stringent criteria will apply.

3.4	**Theme Parks**		
3.4.1	**Category I Projects**	**3.4.2**	**Category II Projects**
3.4.1.1	Theme Parks not in an approved development plan.	3.4.2.1	Theme Parks in an approved development plan.
3.5	**Other Recreation and Sporting Facilities and Activities[2]**		
3.5.1	**Category I Projects**	**3.5.2**	**Category II Projects**
3.5.1.1	Developments which : (i) may reasonably expect to attract 2500 vehicles or more on any given day; or (ii) cover an area over 10 ha	3.5.2.1	Developments which : (i) may attract more than 750 vehicles on any given day; or (ii) has a site area of between 2 - 10 ha; or (iii) has a site area of more than 5,000m^2 and is within 200m of a protected site.
3.5.1.2	Permanent racing and test tracks for motorised vehicles not in an approved plan.	3.5.2.2	Permanent racing and test tracks for motorised vehicles in an approved development plan.
3.5.1.3	Cable cars, ski-lifts and associated developments	3.5.2.3	Permanent camp sites and caravan sites with a capacity for over 50 tents or 30 caravans.
3.6	**Golf Courses**		
3.6.1	**Category I Projects**	**3.6.2**	**Category II Projects**
3.6.1.1	A golf course not in an approved development plan.	3.6.2.1	A golf course in an approved development plan.
3.7	**Industrial Estates**		
3.7.1	**Category I Projects**	**3.7.2**	**Category II Projects**
3.7.1.1	Development of a speculative industrial development (i.e. where no specific end user is identified), where the site is 10 ha or more; or a development of 2 ha – 10 ha where: (i) more than 300 dwellings, or an area designated for more than 300 dwellings, are within 200m of the site boundaries; or (ii) the site boundary is within 200m of a protected site; or (iii) the development is within the aquifer protection zone or within 500m of a bore hole or water abstraction point.	3.7.2.1	Development of an industrial estate with a site area of more than 1ha.
		3.7.2.2	Industrial development with a gross floor are of more than 3,000m^2.

[2] The most stringent criteria will apply.

3.7.2.3 Industrial development with a gross floor area of more than 1000m^2, and:
(i) not an area zoned for industry in an approved plan; or
(ii) within 100m of a protected site; or
(iii) within the aquifer protection zone or within 500m of a bore hole or water abstraction point.

3.8 **Defence**

3.8.1 **Category I Projects**

3.8.1.1 Development for the purpose of defence may require an Environmental Impact Statement depending on the type of the development proposed, site area and location.

3.8.2 **Category II Projects**

4 DEVELOPMENT ON THE COAST AND OFFSHORE

This section refers to developments that are located within the coastal zone. The area of land and sea within the coastal zone will incorporate all coastal natural processes as well as those activities which rely on the land-sea interactions and as may be defined by any development plan.

4.1 **Reclamation**

4.1.1 **Category I Projects**

4.1.1.1 Reclamation of land from the sea and fastening installations to the bed of the sea or raising the level of the bed of the sea and having an area of 1 ha or more.

4.1.2 **Category II Projects**

4.1.2.1 Reclamation of land from the sea or other development in the sea and not being development in 4.1.1.1.

4.2 **Development on the coast (not being covered by other classes of project)**

4.2.1 **Category I Projects**

4.2.2 **Category II Projects**

4.2.2.1 The change of use of land of 1 ha or more.

4.2.2.2 Any engineering works (including coastal defences) with site area of more than 500m^2.

4.2.2.3 Construction of a building with a footprint of more than 100m^2.

4.2.2.4 Sinking of vessels or structures on the sea bed to form artificial reefs or similar structures or uses

4.3	**New Beach or Beach Enhancement**		
4.3.1	**Category I Projects**	**4.3.2**	**Category II Projects**
4.3.1.1	Creation of new beach	4.3.2.1	Enlargement of existing beaches and enhancement of the sea bed.
4.4	**Dredging**		
4.4.1	**Category I Projects**	**4.4.2**	**Category II Projects**
4.4.1.1	Dredging within a Marine Conservation Area (including candidate Marine Conservation Areas) or in an area of seabed scheduled or in any way protected under the Development Planning Act or the Environment Protection Act.	4.4.2.1	Dredging over an area of 25 ha or more, in any dredging cycle or within 5 years.
4.5	**Dumping at Sea**		
4.5.1	**Category I Projects**	**4.5.2**	**Category II Projects**
4.5.1.1	Dumping of waste (solid or liquid) in the sea and not in an official dumping site.	4.5.2.1	Dumping of waste (solid or liquid) in an official dumping site at sea.
5	**EXTRACTIVE INDUSTRY**		
5.1	**Hard Rock Quarries**		
5.1.1	**Category I Projects**	**5.1.2**	**Category II Projects**
5.1.1.1	Any quarry not in an area of potential mineral working in an approved plan. (Transitional arrangements will apply until appropriate subject or local plans have been approved).	5.1.2.1	Development of a quarry and an extension to an existing quarry where the proposed area of new operations is up to 3 ha.
5.1.1.2	Development of a quarry and an extension to an existing quarry where the proposed area of new operations is more than 3 ha.	5.1.2.2	Any quarry where the boundary of the site is within 300m of a protected site.
5.1.1.3	Any quarry where more than 300 dwellings or a site designated for more than 300 dwellings are within 500m of the boundaries of the proposed site.	5.1.2.3	Any quarry where the site is within the aquifer protection zone or 500m of a borehole.

NOTE: A quarry on the coast is also covered by criteria 4.2 Development on the Coast whichever is the more demanding.

5.2	**Soft Rock Quarries**		
5.2.1	**Category I Projects**	**5.2.2**	**Category II Projects**
5.2.1.1	Any quarry not in an area of potential mineral working in an approved plan. (Transitional arrangements will apply until appropriate subject or local plans have been prepared).	5.2.2.1	Development of a quarry and an extension to an existing quarry where the proposed area of new operations is 1 – 5 ha.

5.2.1.2	Development of a quarry and an extension to an existing quarry where the proposed area of new operations is more than 5 ha.	5.2.2.2	A quarry where more than 300 dwellings or a site designated for more than 300 dwellings is within 200m of the boundaries of the proposed site.
		5.2.2.3	Any quarry where the boundary of the site is within 200m of a protected site.
		5.2.2.4	Any quarry where the site is within the aquifer protection zone or within 500m of a bore hole.
5.3	**Restoration and after use**		
5.3.1	**Category I Projects**	**5.3.2**	**Category II Projects**
		5.3.2.1	Restoration and after use of existing and disused quarries not already covered by an approved landscaping / restoration scheme, where the boundary of the site is within 200m of a protected site or a site of known environmental importance.
5.4	**Other Extraction Operations**		
5.4.1	**Category I Projects**	**5.4.2**	**Category II Projects**
5.4.1.1	Deep drilling on land (in excess of 1 km), including geothermal drilling, but excluding drillings for investigating the stability of soils.	5.4.2.1	Drilling for water supplies.
5.4.1.2	Extracting petroleum or natural gas on land.	5.4.2.2	Extraction of minerals by marine dredging.
5.4.1.3	Extracting petroleum or natural gas offshore (an EIS is required for each production contract area).	5.4.2.3	Artificial groundwater recharge schemes not being a development within 5.4.1.6.
5.4.1.4	Surface industrial installation for extraction of petroleum or natural gas.		
5.4.1.5	Underground mining.		
5.4.1.6	Groundwater extraction or artificial recharge schemes where the annual volume of water abstracted or recharged is equivalent to or exceeds 10 million cubic metres.		

NOTE: Extraction of minerals by marine dredging is also covered by criteria 4.4 whichever is the more demanding.

5.5	**Mineral Processing Industries**		
5.5.1	**Category I Projects**	**5.5.2**	**Category II Projects**
5.5.1.1	Erection of a cement manufacturing plant.	5.5.2.1	Erection of a rock processing plant not within the operational site of a quarry.
		5.5.2.2	Erection of a plant for concrete block (brick) production or tarmac production.
		5.5.2.3	Erection of other mineral processing plants e.g. lime kilns, ready-mix.
		5.5.2.4	Construction of salt pans over 1000m^2.
6	**AGRICULTURE**		
6.1	**Land Reclamation and Water Management**		
6.1.1	**Category I Projects**	**6.1.2**	**Category II Projects**
		6.1.2.1	Land reclamation for agriculture where the area to be modified is more than 5ha
		6.1.2.2	Construction of irrigation works for the use of treated water where: (i) the area to be irrigated is more than 10 ha; or (ii) the amount of water intended to be supplied is more than 1,000m^3 in any day; or (iii) the site is located within the aquifer protection zone.
6.2	**Livestock**		
6.2.1	**Category I Projects**	**6.2.2**	**Category II Projects**
6.2.1.1	An establishment for poultry or rabbit production with more than 50,000 broiler or 25,000 layers or equivalent other poultry, rabbits or similar[3].	6.2.2.1	Developments with a site area of more than 7500m^2
6.2.1.2	A pig rearing establishment for more than 500 sows or 5,000 fattening pigs.	6.2.2.2	An establishment for poultry or rabbit production for: (i) more than 20,000 broiler or 5,000 layers or equivalent other poultry, rabbits, or similar[4]; or (ii) more than 10,000 broiler or 2,000 layers and within the aquifer protection zone.

[3] 4 laying hens = 1 turkey
2 laying hens = 1 rabbit
[4] Ibid.

6.2.2.3 An establishment for poultry or rabbit production with more than 5,000 broiler or 1,000 layers or equivalent other poultry, rabbits or similar[5], and where the total number of birds/ animals within 500m of the proposed site is:
(a) more than 20,000 broiler or 5,000 layers[6]; or
(b) more than 10,000 broiler or 2,000 layers[7] and within the aquifer protection zone.

6.2.2.4 A pig rearing establishment, not being a development within 6.2.1.2 and within 500m of residential or community uses, or within the aquifer protection zone.

6.2.2.5 Any livestock unit with:
(i) more than 120 milk or beef cows or equivalent other animals[8]; or
(ii) more than 60 milk or beef cows or equivalent other animals[9] and within the aquifer protection zone.

6.2.2.6 Any livestock unit with:
(i) more than 50 sows or 300 fattening pigs; or
(ii) more than 50 milk or beef cows or equivalent other animals[10]; and where the total number of livestock within 500m of the proposed unit is:
(a) more than 250 milk or beef cows or equivalent other animals[11]; or
(b) more than 150 milk or beef cows or equivalent other animals[12] and within the aquifer protection zone;
(c) more than 250 sows or 2500 fattening pigs; or
(d) more than 150 sows or 1500 fattening pigs and within the aquifer protection zone.

6.2.2.7 Any livestock unit rearing animals such as emus, ostriches, kangaroos, wallabies or crocodiles, whether these are for consumption or otherwise, and other animals, such as snails and frogs, that can create an ecological imbalance if they escape into the wild.

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[5] Ibid.
[6] Ibid.
[7] Ibid.
[8] 1 cow = 3 goats = 4 sheep
[9] Ibid.
[10] Ibid.
[11] Ibid.
[12] Ibid.

6.3	**Aquaculture**		
6.3.1	**Category I Projects**	**6.3.2**	**Category II Projects**
6.3.1.1	Any aquaculture hatchery or unit rearing any form of marine organism (animal or plant), and including penning, and having: (i) facilities covering an area of 2 ha or more at sea (be it at the surface or on the sea-bed); or (ii) intended for the production of more than 100 tons of fish per year and within 2km of the coast.	6.3.2.1	All aquaculture hatcheries or units rearing any form of marine organism (animal or plant), and including penning having facilities at sea (whether on the surface or on the sea-bed) within 2 km of the shoreline.
		6.3.2.2	Aquaculture hatcheries or units rearing any form of marine organism (animal or plant), and including penning, having facilities at sea (whether on the surface or on the sea bottom), more than 2km from the coast and covering an area of more than 2 ha.
		6.3.2.3	All aquaculture hatcheries and rearing farms with all facilities on land covering an area of land of 1 ha or more, or intended for the production of more than 50 tons of fish or equivalent other produce per year not being a development on the coast within 4.2.
6.4	**Commercial Forest Plantation**		
6.4.1	**Category I Projects**	**6.4.2**	**Category II Projects**
6.4.1.1	An afforestation scheme of more than 25 ha.	6.4.2.1	An afforestation scheme of 5 ha or more.
6.5	**Greenhouses and Protected Crops**		
6.5.1	**Category I Projects**	**6.5.2**	**Category II Projects**
		6.5.2.1	Greenhouses or structures to protect crops with an area of more than 1 ha.
		6.5.2.2	Greenhouses or structures to protect crops with an area of more than 5,000m^2 and where the total area of greenhouses within 500m of the site is more than 5 ha.

7	**ENERGY INDUSTRY**		
7.1	**Refineries**		
7.1.1	**Category I Projects**	7.1.2	**Category II Projects**
7.1.1.1	Construction of a crude-oil refinery.		
7.2	**Coal and Allied Works**		
7.2.1	**Category I Projects**	7.2.2	**Category II Projects**
7.2.1.1	Installation for the gasification and liquefaction of coal or bituminous shale.	7.2.2.1	Coke Ovens (dry coal distillation)
7.2.1.2	Industrial briquetting of coal and lignite.		
7.3	**Electric Power Station**		
7.3.1	**Category I Projects**	7.3.2	**Category II Projects**
7.3.1.1	Construction of thermal power station and other combustion installation with an output of more than 50 megawatts.	7.3.2.1	Construction or extension of a thermal power station and other combustion installation for the generation of power for sale to consumers and not being development falling within 7.3.1.1.
7.3.1.2	Erection of any electric power station, other than a nuclear power station, including the use of renewable forms of energy (including wind, wave and sun), with an output of more than 2 megawatts.	7.3.2.2	Erection of an electric power station using renewable energy designed to sell electricity to consumers, i.e. not for personal use, and not falling within 7.3.1.2.
7.4	**Nuclear Energy**		
7.4.1	**Category I Projects**	7.4.2	**Category II Projects**
7.4.1.1	Construction of a nuclear power station or some other nuclear reactor.		
7.4.1.2	Installation for reprocessing irradiated fissile materials.		
7.4.1.3	Installation for the accumulation and processing of radioactive wastes, including fission waste and irradiated fissile elements.		
7.4.1.4	Installation for the permanent storage or final disposal of radioactive wastes.		
7.5	**Wind Farms**		
7.5.1	**Category I Projects**	7.5.2	**Category II Projects**
7.5.1.1	Installations for the harnessing of wind power for energy production.		

7.6	**Storage of Gases, Fossil Fuels and Petroleum**		
7.6.1	**Category I Projects**	7.6.2	**Category II Projects**
7.6.1.1	Surface and underground storage of combustible gases including natural gas with a capacity of more than 100,000m^3.	7.6.2.1	Installation for storage and transport of gas, steam or hot water over a network having more than 1km of pipe work.
7.6.1.2	Surface storage of fossil fuels on a site of 2ha or more.	7.6.2.2	Industrial installations for the production of steam and hot water.
7.6.1.3	Storage of petroleum products with a capacity of more than 100,000m^3.	7.6.2.3	Surface storage of fossil fuels on a site of more than 5,000m^2.
		7.6.2.4	Storage of petroleum products not covered in 7.6.1.3 on a site: (i) over 20,000m^3; or (ii) where more than 300 dwellings or a site designated for more than 300 dwellings are within 300m of the proposed site; or (iii) within the aquifer protection zone; or (iv) within 500m of a borehole; or (v) where the storage capacity is between 50.000m^3 and 100,000m^3.
7.7	**Electric Transmission**		
7.7.1	**Category I Projects**	7.7.2	**Category II Projects**
7.7.1.1	The transmission of electrical energy by overhead cables at high voltage over 100KV and over more than 1km.	7.7.2.1	The transmission of electrical energy by overhead cables with a voltage of over 30KV and over more than 1km.
8	**INDUSTRIAL DEVELOPMENTS AND OPERATIONS**		
8.1	**Industrial Smelting of cast-iron and steel**		
8.1.1	**Category I Projects**	8.1.2	**Category II Projects**
8.1.1.1	Construction of an installation for the initial smelting of cast-iron, steel or other metals.		
8.2	**Asbestos**		
8.2.1	**Category I Projects**	8.2.2	**Category II Projects**
8.2.1.1	Construction of an installation for the treatment and processing of asbestos and products containing asbestos.	8.2.2.1	The use of asbestos in manufacture or production of products not being a development within 8.2.1.1 to 8.2.1.4.
8.2.1.2	Construction of an installation for the manufacture of asbestos cement.		
8.2.1.3	Construction of an installation for the manufacture of brake linings with a capacity of 50 tonnes or more per year.		

8.2.1.4 Construction of an installation for the manufacture or production of other products containing asbestos with a consumption of over 200 tonnes or more of asbestos per year.

8.3 Chemical Installations

8.3.1 Category I Projects

8.3.1.1 Construction of an integrated chemical installation, i.e. an installation for the manufacture on an industrial scale of substances using chemical conversion or physical processes, in which several units are juxtaposed and are functionally linked to one another and which are:

(i) for the production of basic organic chemicals;
(ii) for the production of basic inorganic chemicals;
(iii) for the production of phosphorous-, nitrogen-, or potassium-based fertilisers (simple or compound fertilisers);
(iv) for the production of basic plant health products or biocides;
(v) for the production of basic pharmaceutical products using a chemical or biological process;
(vi) for the production of explosives.
(vii) for the production of any other product not listed above but which requires similar treatment.

8.3.2 Category II Projects

8.4 - 8.10 OTHER INDUSTRIES

General Criteria

The industrial developments listed below are in Category I where the following circumstances apply:

(a) construction, extension or the major change in use of buildings, or installations requiring an investment of Lm10M or more. Expansions within five years of a previous construction phase are considered part of that construction phase; or

(b) the industrial operations will require the disposal of significant[13] quantities of liquid, gaseous or solid wastes; or

(c) significant[§] quantities of chemical or combustible material are to be stored on site; or

(d) development covering a site of 2ha or more is:

  (i) to be located in an area not designated for the type of industry in an approved development plan; or

  (ii) more than 300 dwellings or a site for more than 300 dwellings are within 200m of the site boundaries; or

  (iii) the boundary of the site is within 200m of a protected site; or

  (iv) within the aquifer protection zone or within 500m of a bore hole.

All industrial developments not covered by the above conditions and with a site area of more than 2,000m^2 are in Category II.

8.4	**Processing of metals**	
8.4.1	Category I Projects	8.4.2 Category II Projects
8.4.1.1	Roasting, pelletizing or sintering of ores.	
8.4.1.2	Ironworks or steelworks including a foundry, forge, smithery, drawing plant or rolling mill not being works falling within 8.4.1.1.	
8.4.1.3	The pressing, drawing, or stamping of large castings.	
8.4.1.4	Installations for production (including smelting, refining, drawing and rolling) of non-ferrous metals, other than precious metals.	

[13] "Significant" means the quantities to be disposed of or stored may have significant environmental impacts on the locality.

8.4.1.5 Installations for the surface treatment and coating of metals and plastic materials using an electrolytic or chemical process.

8.4.1.6 Boiler-making or manufacturing of reservoirs, tanks and other sheet-metal containers.

8.4.1.7 Shipyards.

8.4.1.8 Manufacture or assembly of motor vehicles or manufacturing motor-vehicle engines.

8.4.1.9 Installations for the construction or repair of aircraft.

8.4.1.10 Swaging by explosives.

8.4.1.11 Installations for the application of protective fused metal coats.

8.5 Glass and Ceramics

8.5.1 Category I Projects

8.5.1.1 The manufacture of glass including glass fibre.

8.5.1.2 The manufacture of ceramic products by burning, in particular roofing tiles, bricks, refractory bricks, tiles, stoneware or porcelain.

8.5.2 Category II Projects

8.6 Chemical Industry

8.6.1 Category I Projects

8.6.1.1 Treatment of intermediate products and production of chemicals not being a development within 8.6.

8.6.1.2 Production of pesticides or pharmaceutical products, paints, varnishes, elastomers or peroxides.

8.6.1.3 Storage of chemical or petrochemical products.

8.6.2 Category II Projects

8.7 Food Industry

8.7.1 Category I Projects

8.7.1.1 Manufacturing of vegetable or animal fats.

8.7.1.2 Packing or canning of animal or vegetable products.

8.7.1.3 Manufacture of dairy products.

8.7.1.4 Brewing or malting.

8.7.1.5 Confectionery or syrup manufacture.

8.7.2 Category II Projects

8.7.1.6	Installations for the slaughter of animals.		
8.7.1.7	Installations for the manufacture of industrial starch.		
8.7.1.8	Fish meal or fish-oil industry.		
8.7.1.9	Sugar factory.		
8.8	**Textile, Leather, Wood and Paper Industries**		
8.8.1	**Category I Projects**	**8.8.2**	**Category II Projects**
8.8.1.1	Wool scouring, degreasing and bleaching factory.		
8.8.1.2	Manufacture of fibre board, particle board or plywood.		
8.8.1.3	The manufacture of pulp, paper or board.		
8.8.1.4	Fibre drying factory.		
8.8.1.5	Cellulose-processing and production installation.		
8.8.1.6	Tannery or leather dressing industry.		
8.9	**Rubber Industry**		
8.9.1	**Category I Projects**	**8.9.2**	**Category II Projects**
8.9.1.1	Manufacture and treatment of elastomer-based products.		
8.10	**Other Projects**		
8.10.1	**Category I Projects**	**8.10.2**	**Category II Projects**
8.10.1.1	Manufacture, packing, loading or placing in cartridges of gunpowder or other explosives other than for local use i.e. the making of fireworks for local festas.		
8.10.1.2	The storage of scrap iron including scrap vehicles.		
8.10.1.3	A car breakers yard, a test bench for engines, turbines or reactors.		
8.10.1.4	A knackers yard.		
8.10.1.5	Installations for smelting mineral substances including the production of mineral fibres		
8.10.1.6	Installations for the manufacture of artificial mineral fibres.		

9. DEVELOPMENTS AFFECTING NATURAL AND CULTURAL HERITAGE

Any development or activity on behalf of which a scheduled property, conservation area, or other property having heritage value, whether natural or cultural, could be destroyed or its protected status rescinded, may require an environmental impact statement.

10. CHANGES OR EXTENSIONS TO APPROVED PROJECTS

Any change or extension of projects listed in Category I or II, already authorized, executed or in the process of being executed, which may have significant adverse effects on the environment shall be required to undertake a new environmental impact assessment, the scale of which shall be determined by the Director of Planning.

11. RE-ACTIVATION OF CATEGORY I PROJECTS

Projects in Category I, undertaken exclusively or mainly for the development and testing of new methods or products and not used for more than two years shall be subject to an environmental planning statement prior to re-use.

12. CUMULATIVE EFFECTS OF PROJECTS

Projects not included in Category I and II and which normally do not require an assessment of environmental impacts but, due to cumulation with other projects can produce significant environmental or social effects, may be required to undertake an environmental impact statement or an environmental planning statement if the Director of Planning is of the opinion that significant impacts are likely to occur and a normal development permission application would not provide an adequate basis for evaluating such developments.

SCHEDULE II

Form of notice of an Environmental Impact Assessment to be used for newspaper advertisement and site notice by an applicant who submits an Environmental Impact Statement or Environmental Planning Statement.

DEVELOPMENT PLANNING ACT Cap. 356
Environmental Impact Assessment Regulations, 2001

NOTICE OF APPLICATION FOR DEVELOPMENT PERMISSION ACCOMPANIED BY AN ENVIRONMENTAL IMPACT STATEMENT [*or Environmental Planning Statement, as the case may be*]
(to be published in a newspaper and displayed on or near the site)

Proposed development at [*address or location of the development*]

[*Name of applicant*] gives notice that an application [*PA No.*] dated [*date*] has been made to the Planning Authority for development permission to [*description of development*] and that the application is accompanied by an environmental impact statement [*or environmental planning statement, as the case may be*].

Members of the public may inspect copies of:
1. the application
2. the plans
3. the environmental impact statement [*or environmental planning statement, as the case may be*]
4. and other documents submitted with the application

at the offices of the Planning Authority or the Environment Protection Department [*other addresses such as the local council offices may also be included*] during office hours until [*date giving a period of 21 days, beginning with the date when the notice is first displayed on or near the site, or a period of 14 days, beginning with the date when the notice is published in a newspaper (as the case may be)*];

Members of the public may obtain copies of the environmental impact statement [*or environmental planning statement, as the case may be*] from [*address from where copies of the environmental statement may be obtained*] so long as stocks last, at a charge of [*amount of charge*].

Anyone who wishes to make representations about this application should write to the Planning Authority at St Francis Ravelin, Floriana CMR 01 by [*date giving a period of 21 days, beginning with the date when the notice is first displayed on or near the site, or a period of 14 days, beginning with the date when the notice is published in a newspaper (as the case may be)*]

Date .....

SCHEDULE III

SCHEDULE OF FEES FOR REGISTRATION AS AN ENVIRONMENTAL IMPACT ASSESSMENT CONSULTANT

The following fees shall apply for registration under one of the hereunder listed categories of environmental impact assessment consultants:

CATEGORY AND DESCRIPTION OF FEE	FEE
JUNIOR IMPACT ASSESSOR	
Application Fee	Lm 50
Upgrade to next level	Lm 70
SENIOR IMPACT ASSESSOR	
Application Fee	Lm 100
Yearly Renewal Fee	Lm 50
Upgrade to next level	Lm 70
CO-ORDINATOR	
Application Fee	Lm 150
Yearly Renewal Fee	Lm 75

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[3] 4 laying hens = 1 turkey
2 laying hens = 1 rabbit
[4] Ibid.
[5] Ibid.
[6] Ibid.
[7] Ibid.
[8] 1 cow = 3 goats = 4 sheep
[9] Ibid.
[10] Ibid.
[11] Ibid.
[12] Ibid.
[13] "Significant" means the quantities to be disposed of or stored may have significant environmental impacts on the locality.