
**ENVIRONMENTAL ASSESSMENT OF PLANS AND
PROGRAMMES ORDINANCE 2016**

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**ENVIRONMENTAL ASSESSMENT OF PLANS AND
PROGRAMMES ORDINANCE 2016**

An Ordinance to require assessments to be carried out in relation to the environmental impact of certain types of plans and programmes

M. Wigston

23 February 2016

ADMINISTRATOR

BE it enacted by the Administrator of the Sovereign Base Areas of Akrotiri and Dhekelia as follows:—

Short title and commencement

1.—(1) This Ordinance may be cited as the Environmental Assessment of Plans and Programmes Ordinance 2016.

(2) This Ordinance comes into force on 1 March 2016.

Interpretation

2. In this Ordinance—

“2007 Ordinance” means the Delegation of Functions to the Republic Ordinance 2007(a);

“Committee” means the committee established under section 7 of the corresponding Republican law and includes its members;

“competent authority” means the officer of the Areas by whom, or on whose behalf, a plan or programme is prepared;

“corresponding Republican law” means Law Number 102(I)/2005 (Assessment of the Effects of Certain Plans or Programmes on the Environment Law 2005);

“development plan” means a policy statement prepared under—

(a) the Town and Country Planning (Preparation of Policy) Ordinance 2014(b);

(b) any legislation substituted for the Town and Country (Preparation of Policy) Ordinance 2014; or

(c) any similar plan;

“environment” means one or more of the following elements—

(a) Ordinance 17/2007 as amended by Ordinance 8/2012.

(b) Ordinance 38/2014 as amended by Ordinance 1/2016.

- (a) landscape;
 - (b) water;
 - (c) air;
 - (d) soil;
 - (e) any organisms living in one or more of the elements referred to in paragraphs (a) to (d);
- “environmental effects” includes any impact, whether positive or negative, direct or indirect, permanent or temporary, short, medium or long term, cumulative, secondary or synergistic, which may include the effect on one or more of the following—

- (a) biodiversity;
- (b) the human population;
- (c) human health;
- (d) flora or fauna;
- (e) a natural, historic or man-made landscape;
- (f) the atmosphere;
- (g) soil;
- (h) water;
- (i) climatic conditions;
- (j) material assets;
- (k) archaeological or architectural heritage;
- (l) landscape;
- (m) the interrelationship between any of the factors referred to in paragraph (a) to (l).

“environmental legislation” means any provision in an Ordinance^(a) relating to the protection or management of the environment, whether such a provision—

- (a) is contained in an Ordinance primarily concerned with the protection or management of the environment or not; or
- (b) is made before or after the coming into force of this Ordinance;

“Environment Authority” means the head of the environment department of the Administration;

“immovable property” has the meaning given in section 2 of the Immovable Property (Tenure, Registration and Valuation) Ordinance^(b);

“installation” has the meaning given in the Control of Water Pollution Ordinance 2005^(c);

“local council” means a municipal council or a community council;

“plan” or “programme” means a plan or a programme which—

- (a) is prepared, adopted, modified or approved by or on behalf of an officer of the Areas; and
- (b) is required by legislation;

“project” means—

- (a) the execution of construction works or of another installation or scheme; or
- (b) any other intervention in the environment, including the extraction of mineral resources;

“significant environmental effects” is construed in accordance with the characteristics in Schedule 2; and

(a) The term “Ordinance” is defined in Schedule 1 to the Interpretation Ordinance 2012 (Ordinance 8/2012).
 (b) Cap 224, Laws of Cyprus 1959 ed. Legislation of the former colony of Cyprus has effect in the Areas by virtue of article 5 of the Sovereign Base Areas of Akrotiri and Dhekelia Order in Council 1960 (UK S.I. 1369/1960). Schedule 2 to the Interpretation Ordinance 2012 (Ord. 8/2012) provides for the interpretation of such legislation. Cap 224 has been amended but the amendments are not relevant.
 (c) Ordinance 1/2005 as amended by Ordinance 5/2009.

“strategic environmental impact assessment” or “SEIA” has the meaning given in section 3.

(2) References in this Ordinance to legislation of the Republic of Cyprus are to be construed as including—

- (a) any amendments made to such legislation, whether made before or after the coming into force of this Ordinance; and
- (b) any substituting legislation.

Definition of strategic environmental impact assessment

3. For the purposes of this Ordinance, a “strategic environmental impact assessment” (“SEIA”) means—

- (a) the preparation of an environmental report by the competent authority or a person on behalf of the competent authority;
- (b) the carrying out of consultation between the competent authority and others in accordance with sections 10 (information on submitting an environmental report and representations) and 11 (consultation) and, where relevant, section 15 (public hearing);
- (c) the carrying out of consultation by the Environment Authority with the Republic under section 16 (effects on the Republic) where section 16(4) applies;
- (d) the assessment by the Environment Authority of the environmental report and the opinions and recommendations made as a result of consultation;
- (e) the final decision as regards the plan or programme; and
- (f) the notification of the decision.

Purpose

4. By ensuring that SEIAs are carried out for certain plans and programmes which are likely to have significant environmental effects, the purpose of this Ordinance is to—

- (a) protect the environment; and
- (b) promote sustainable development by integrating environmental considerations into the preparation and approval of plans and programmes.

Scope

5.—(1) The competent authority must undertake a SEIA for a plan or programme if—

- (a) subsection (2) applies and subsection (3) does not; or
- (b) subsection (3) or (7) applies, unless the Environment Authority decides that the plan or programme is not likely to have significant environmental effects in accordance with section 6.

(2) This subsection applies to a plan or a programme which—

- (a) is prepared for agriculture, forestry, fisheries, quarrying or extraction of minerals, energy, industry, transport, waste management, water resource management, telecommunications, tourism, town and country planning or land use; and
- (b) either—
 - (i) sets the framework for future development consent for projects requiring environmental approval under the Environmental Impact Assessment Ordinance 2010(a); or

(a) Ordinance 26/2010 as amended by Ordinance 19/2014.

(ii) is subject to an appropriate assessment under section 10 of the Protection and Management of Nature and Wildlife Ordinance 2007(a) or section 10 of the Game and Wild Bird Ordinance 2008(b).

(3) This subsection applies to—

(a) plans or programmes referred to in subsection (2) which only determine the use of small areas of immovable property at local level; and

(b) minor modifications to plans or programmes referred to in subsection (2).

(4) Where the Environment Authority reaches a preliminary conclusion that a plan or a programme referred to in subsection (3) is not likely to have significant environmental effects, the Environment Authority must request the opinion of the Committee.

(5) Where the Environment Authority makes a request under subsection (4) the Committee may provide its opinion.

(6) When making its final decision in accordance with section 6 in relation to subsection (3) the Environment Authority must take into account any opinion which the Committee provides.

(7) This subsection applies to plans or programmes to which subsection (2)(b)(i) applies, but subsection (2)(a) does not.

(8) Subject to subsection (9), this Ordinance does not apply to a plan or a programme which is prepared only for defence purposes or to safeguard against civil emergencies.

(9) Where a plan or programme is prepared for a purpose referred to in subsection (8) the competent authority must cooperate with the Environment Authority in order to examine alternative solutions, arrangements or measures which may be adopted to mitigate or eliminate any serious effects of the plan or programme, or a secondary component of the plan or programme, if—

(a) it is likely to have significant negative effects on the environment due to its anticipated impact on natural areas, landscapes of particular significance or protected flora or fauna; or

(b) it involves the significant production or management of waste or energy, or the management of natural resources.

(10) Except for the function in subsection (9), the functions of the competent authority and the Environment Authority under this section are qualified delegated functions under the 2007 Ordinance.

Decision of the Environment Authority as to whether a plan or programme is likely to have significant environmental effects

6.—(1) Within a period of 30 days, beginning with the day on which it receives all the necessary information, the Environment Authority must decide whether or not a plan or a programme referred to in section 5(3) or (7) is likely to have significant environmental effects by—

(a) examining the particular facts;

(b) assessing the type of plan or programme; or

(c) combining the approaches in paragraphs (a) and (b).

(2) During the decision making process under subsection (1), the Environment Authority must take into account the characteristics listed in Schedule 2 in order to establish whether or not a plan or a programme is likely to have significant environmental effects.

(3) When undertaking an examination of the facts or assessing the type of plan or programme, the Environment Authority must consult with the persons referred to in section 11(1).

(a) Ordinance 26/2007 as amended by Corrigendum 35/2007 and Ordinances 10/2008, 26/2008 and 4/2016. Section 10 is amended by Ordinances 26/2008 and 4/2016.

(b) Ordinance 21/2008 as amended by Ordinances 3/2009, 17/2009, 29/2009, 34/2010, 8/2013, 18/2014 and 1/2015. Section 10 is amended by Ordinance 3/2016.

(4) The Environment Authority must ensure that the decision it reaches under subsection (1) including, where relevant, the reasons why a plan or programme does not have significant environmental effects and a SEIA is not required, is made available to the public by—

- (a) recording the decision in the register provided for in section 20; and
- (b) publishing its decision and a reference to the relevant register entry as a notice in the Gazette and in at least 2 daily newspapers widely circulated within the island of Cyprus.

(5) Except for the functions in subsection (4), the functions of the Environment Authority under this section are qualified delegated functions for the purposes of the 2007 Ordinance.

(6) The functions of the Environment Authority under subsection (4) are general delegated functions for the purposes of the 2007 Ordinance.

Obligation to assess environmental effects

7.—(1) Where a plan or a programme requires a SEIA the competent authority must not approve it until the SEIA process is completed.

(2) Where a plan or a programme requires a SEIA, the competent authority must submit an environmental report together with the draft plan or programme to the Environment Authority during the preparation of the plan or programme.

(3) Where a development plan is being prepared or modified, the SEIA, including the final decision under section 17 (decision making) or 18 (disagreements), must be carried out during the preparation of the development plan and before its publication.

(4) In relation to the preparation or modification of a development plan under the Town and Country Planning (Preparation of Policy) Ordinance 2014 (the “2014 Ordinance”)—

- (a) paragraph (b) applies during the period beginning with consultation (under section 11 of the 2014 Ordinance or any substituting legislation) and ending with the publication of the development plan (under section 8 of the 2014 Ordinance or any substituting legislation);
- (b) the affected area within the scope of the draft development plan, or the part of an existing development plan which may be modified, is considered to be a white zone under section 5 of the Protection of the Environment Ordinance 1998(a) or any other relevant provisions in legislation addressing development plans.

(5) Where a plan or a programme forms part of a hierarchy of plans or programmes, in order to avoid duplication of the SEIA, the Environment Authority may take into account that other assessments have been carried out under this Ordinance at different levels of the hierarchy.

(6) Subject to subsections (7) and (8), the requirement to carry out a SEIA applies to a plan or a programme of which—

- (a) the first formal preparatory act was carried out on or after 1 January 2014; or
- (b) the first formal preparatory act was carried out before 1 January 2014 and the plan or programme is submitted for approval on or after 1 January 2017.

(7) Subsection (6) does not apply to—

- (a) a component of a plan or a programme which was in effect before 1 January 2014 and has not been modified; or
- (b) a component of a plan or a programme for which a SEIA was carried out previously under this Ordinance and which has not been modified by a subsequent plan or programme.

(8) After examining the plan or programme, where it considers appropriate, the Environment Authority may decide that a SEIA is not required in the cases referred to in subsection (6)(b).

(9) The Environment Authority must ensure that the decision it reaches under subsection (8) is made available to the public by—

(a) Ordinance 9/1998 as amended by Ordinance 19/2008.

- (a) recording the decision in the register provided for in section 20; and
- (b) publishing its decision and a reference to the relevant register entry as a notice in the Gazette and in at least 2 daily newspapers widely circulated within the island of Cyprus.

(10) The function of the competent authority in subsection (2) is a qualified delegated function for the purposes of the 2007 Ordinance.

(11) Except for the functions in subsection (9), the functions of the Environment Authority under this section are qualified delegated functions for the purposes of the 2007 Ordinance.

(12) The functions of the Environment Authority under subsection (9) are general delegated functions for the purposes of the 2007 Ordinance.

Opinion on whether or not an environmental report is required

8.—(1) The competent authority must prepare an environmental report for a plan or programme where it is required to undertake a SEIA for that plan or programme in accordance with section 5(1).

(2) If the competent authority is uncertain whether or not a plan or programme requires a SEIA, during the preliminary stages of preparing a plan or a programme, the competent authority must request the opinion of the Environment Authority regarding whether or not an environmental report is required.

(3) If the competent authority makes a request, the Environment Authority must decide whether or not the competent authority is required to prepare an environmental report, taking into account the characteristics listed in Schedule 2 to assess whether or not the plan or programme is likely to have significant environmental effects.

(4) Subject to subsection (5), in making the decision under subsection (3), the Environment Authority may request the opinion of the Committee.

(5) The Environment Authority must request the opinion of the Committee where, during its preliminary examination of a plan or a programme, the Environment Authority reaches the view that the plan or programme will not require a SEIA.

(6) If the competent authority disagrees with the decision of the Environment Authority on the need to prepare an environmental report, the competent authority may request that the Environment Authority consults with the Committee with a view to obtaining its opinion and the Environment Authority must do so.

(7) Where the Environment Authority makes a request, the Committee may provide its opinion.

(8) When making its final decision on whether or not a SEIA is required, the Environment Authority must take into account any opinion which the Committee provides.

(9) The functions of the competent authority under this section are qualified delegated functions for the purposes of the 2007 Ordinance.

(10) The functions of the Environment Authority under this section are qualified delegated functions for the purposes of the 2007 Ordinance.

Opinion about the content of an environmental report

9.—(1) Where the competent authority prepares an environmental report, the competent authority may make a written request to the Environment Authority that it provides its opinion as regards the type or form of the environmental report and the information to be contained in it.

(2) A request made under subsection (1) must be accompanied by—

- (a) a description of the nature of the plan or programme and the purpose for which the plan or programme will be used;
- (b) a land survey plan specifying the immovable property which will be or is likely to be affected when the plan or programme is implemented, if this is relevant and feasible; and
- (c) any other information considered useful or necessary regarding the effects that the plan or programme is likely to cause to the environment.

(3) On receipt of the request under subsection (1), the Environment Authority may request the competent authority to provide any other additional information that it considers necessary.

(4) The Environment Authority must provide its opinion after it has received the information referred to in subsection (2) and, where relevant, the information referred to in subsection (3).

(5) The functions of the competent authority and the Environment Authority under this section are qualified delegated functions for the purposes of the 2007 Ordinance.

Information on submitting an environmental report and representations

10.—(1) The competent authority must submit the environmental report and the draft plan or programme to the Environment Authority, the Area Officers and any local councils whose areas are likely to be affected by the plan or programme (the “interested authorities”).

(2) The competent authority must publish a notice in the Gazette and in at least 2 daily newspapers widely circulated within the island of Cyprus stating—

- (a) the date of submission of the plan or programme and the environmental report and the interested authorities to which it was submitted under subsection (1);
- (b) the nature of the proposed plan or programme;
- (c) that the draft plan or draft programme and environmental report are available for inspection during normal working hours at the Area Offices;
- (d) that any person may submit opinions or representations in writing to the Environment Authority regarding the content of the environmental report or the effects that the approval of the plan or programme is likely to cause to the environment, within 35 days beginning with the date of publication of the notice in the Gazette.

(3) The functions of the competent authority under this section are qualified delegated functions for the purposes of the 2007 Ordinance.

Consultation

11.—(1) The competent authority must take such steps as it considers appropriate to bring the preparation of the plan or programme and the environmental report to the attention of the following, in order to give them the opportunity, in writing, to express an opinion or to make representations—

- (a) local councils whose areas are likely to be affected by the decision made about a plan or a programme;
- (b) persons who the competent authority consider are affected or likely to be affected by the decision made about a plan or a programme;
- (c) persons the competent authority considers are likely to be interested in the environmental effects of the plan or programme.

(2) The functions of the competent authority under this section are qualified delegated functions for the purposes of the 2007 Ordinance.

Content of an environmental report

12.—(1) An environmental report must include information regarding the plan or programme, and in particular—

- (a) the information referred to in Schedule 1, to such an extent and at such level of detail as may reasonably be required for the assessment of the environmental effects of the plan or programme, as well as detailed information of reasonable alternatives taking into account the objectives and the geographical scope of the plan or programme;
- (b) any other information which the Environment Authority may reasonably require to be included in the report, taking into account—
 - (i) current knowledge and methods of assessment;

- (ii) the contents and level of detail in the plan or programme;
 - (iii) the decision making process; and
 - (iv) the extent to which certain matters are better assessed at different levels of the decision making process in order to avoid duplication of the SEIA; and
- (c) any relevant and available information referred to in Schedule 1 as regards the effects of the plan or programme on the environment obtained at other stages of the procedure or other procedures provided for by other environmental legislation.
- (2) When deciding the extent and level of detail that needs to be contained in the environmental report, the Environment Authority must consult the local councils referred to in section 11(1)(a).
- (3) The functions of the competent authority and the Environment Authority under this section are qualified delegated functions for the purposes of the 2007 Ordinance.

Providing information for the preparation of an environmental report

13.—(1) This section applies subject to the provisions of the Republic’s Law 119(I)/2004 (Public Access to Information related to the Environment Law 2004(a)).

(2) The competent authority may request information held by a local council for the purpose of preparing or assessing an environmental report.

(3) Where a request is made under subsection (2) the local council must pass the information to the competent authority if—

- (a) the information could reasonably be considered to be relevant for the purpose of preparing or assessing an environmental report; and
- (b) the information is not considered to be confidential in accordance with any legislation or the common law.

(4) The Environment Authority may provide in writing to a local council the reasons why the information held by the local council is required for the purpose of preparing or assessing an environmental report.

(5) Where a local council does not provide to the competent authority the information requested under subsection (2) it must inform the competent authority, in writing, of the reasons why such information is not provided.

(6) The functions of the competent authority and the Environment Authority under this section are general delegated functions for the purposes of the 2007 Ordinance.

Environmental report examination procedure

14.—(1) After the Environment Authority has received an environmental report, it must send a copy of the environmental report to the Committee within 15 days beginning with the day of its receipt by the Environment Authority.

(2) In the period between sending the environmental report to the Committee and convening a meeting for its examination, the Environment Authority must decide whether or not the information contained in the environmental report is sufficient.

(3) Where the Environment Authority decides that the information referred to in subsection (2) is insufficient, it may ask the competent authority to provide additional information about the plan or programme, or its potential environmental effects, within a specified reasonable period of time, which must not exceed 60 days beginning with the day of the request.

(4) If the information requested under subsection (3) is not provided within the specified period, the Environment Authority must inform the Committee.

(5) When the Environment Authority decides that the information provided in relation to a plan or programme is sufficient, it must ask the Committee to attend a meeting.

(a) Published in Republican Gazette No. 3850 on 30 April 2004.

- (6) Where the Environment Authority makes a request, the Committee may attend the meeting.
- (7) After the meeting, the Environment Authority must ask the Committee to provide its written opinion and recommendations regarding the environmental report and the effect that the plan or programme is likely to have on the environment, having taken account of—
- (a) opinions or representations made to the Environment Authority under sections 10 and 11;
 - (b) opinions or representations made by members of the public at any public hearings held under section 15; and
 - (c) any representations made by the Republic under section 16.
- (8) After the Environment Authority makes a request under subsection (7), the Committee may provide its opinion and recommendations.
- (9) Having taken into account any opinion and recommendations made by the Committee, the Environment Authority must prepare a written opinion as regards the plan or programme and send it to the competent authority.
- (10) The written opinion of the Environment Authority may, in particular, relate to—
- (a) the integration of certain environmental considerations into the plan or programme;
 - (b) modifications to the plan or programme to ensure the protection of the environment and management of natural resources; and
 - (c) specifications for monitoring and controlling any effects on the environment caused by the plan or programme and in particular—
 - (i) the areas which it is advisable to monitor;
 - (ii) the monitoring methods; and
 - (iii) the frequency of collecting data.
- (11) Where the Environment Authority decides that a condition or a measure is essential to the plan or programme, it must specify this.
- (12) Where the authorities of the Republic made representations under section 16 the Environment Authority must seek to ensure that its opinion is sent to those authorities.
- (13) The Environment Authority must—
- (a) record its opinion in the register provided for in section 20; and
 - (b) publish a notice in the Gazette and in at least 2 daily newspapers, widely circulated within the island of Cyprus, that its opinion is recorded in the register.
- (14) The functions of the competent authority under this section are qualified delegated functions for the purposes of the 2007 Ordinance.
- (15) Except for the functions in subsection (13), the functions of the Environment Authority under this section are qualified delegated functions for the purposes of the 2007 Ordinance.
- (16) The functions of the Environment Authority under subsection (13) are general delegated functions for the purposes of the 2007 Ordinance.

Public hearing

- 15.**—(1) When an environmental report is submitted to the Committee, the Environment Authority may make a recommendation to the Administrator that a public hearing should be held before the Committee completes their assessment of the report, where the Environment Authority—
- (a) considers the plan or programme to which the report relates to be significant; and
 - (b) has consulted the competent authority and, where possible, the Committee.
- (2) The recommendation referred to in subsection (1) must set out the reasons why the Environment Authority considers that a public hearing should be held.
- (3) The Administrator must consider any recommendation made under subsection (1) and decide whether or not a public hearing is to be held.

(4) The functions of the competent authority and the Environment Authority under this section are general delegated functions for the purposes of the 2007 Ordinance.

(5) The function of holding a public hearing is not a delegated function for the purposes of the 2007 Ordinance.

Effects on the Republic

16.—(1) Where—

- (a) the Environment Authority considers that the approval of a plan or programme in the Areas is likely to have significant effects on the environment of the Republic; or
- (b) the Republic considers that the approval of the plan or programme would have such an effect and makes a request to the Environment Authority,

the Environment Authority must send to the Republic as soon as reasonably practicable, and in any event before the plan or programme is approved, the information specified in subsection (2).

(2) The information specified in this subsection is—

- (a) a copy of the draft plan or programme;
- (b) a copy of the environmental report submitted in relation to the plan or programme; and
- (c) information about the SEIA procedure set out in this Ordinance.

(3) Where subsection (1) applies, the Environment Authority must allow reasonable time for the Republic to inform the Environment Authority whether it wishes to make representations about the matters referred to in subsection (4).

(4) Where the Republic notifies the Environment Authority of its wish to make representations about the plan or programme, the Environment Authority must consult the Republic about—

- (a) the likely effects on the Republic's environment of approving the plan or programme; and
- (b) measures to reduce or eliminate any negative environmental effects.

(5) Where the Environment Authority acts under this section it must (before the plan or programme is approved) ensure that—

- (a) the relevant information and data is made available to the relevant authorities of the Republic within a reasonable period of time; and
- (b) the relevant authorities, and the public, of the Republic have a reasonable period of time in which to make representations about that information and data.

(6) Where the Environment Authority consults the Republic under subsection (4), it must seek to agree a reasonable period of time for that consultation with the Republic.

(7) The functions of the Environment Authority under this section are qualified delegated functions for the purposes of the 2007 Ordinance.

Decision making

17.—(1) Before making a decision about whether to approve a plan or a programme, and whether to amend it before doing so, the competent authority must take into account—

- (a) the environmental report;
- (b) representations made under sections 10 (information on submitting an environmental report and representations) and 11 (consultation);
- (c) the opinion of the Environment Authority prepared under section 14(9);
- (d) representations made at any public hearing held under section 15; and
- (e) representations made under section 16 (effects on the Republic).

(2) When making a decision about a plan or programme the competent authority must have regard, in particular, to matters of environmental protection, economic development and the public interest.

Disagreements

18.—(1) If the competent authority disagrees with the inclusion or adoption of an essential condition or measure specified by the Environment Authority in its opinion prepared under section 14(9), the competent authority must—

- (a) inform the Environment Authority; and
- (b) refer the matter to the Administrator for the Administrator's decision.

(2) The decision of the Administrator is final.

Information

19.—(1) Where the competent authority decides to approve a plan or programme it must inform the Environment Authority about—

- (a) its decision and any conditions or measures attached to it;
- (b) the plan or programme as approved and a description of how terms or measures recommended by the Environment Authority in its opinion were incorporated; and
- (c) the reasons and evaluations on which the decision was based, taking into account other reasonable alternatives examined.

(2) Having received the information specified in subsection (1), the Environment Authority must—

- (a) publish a notice of the decision in the Gazette and in at least 2 daily newspapers widely circulated within the island of Cyprus; and
- (b) notify the Republic of the decision if the Republic was consulted under section 16.

(3) A notice given in accordance with subsection (2) must state that—

- (a) the information referred to in subsection (5) is recorded in the register provided for in section 20; and
- (b) the time and place where the information is available for inspection.

(4) The Environment Authority must record the information referred to in subsection (5) in the register provided for in section 20.

(5) The information is—

- (a) a description of the plan or programme as approved;
- (b) a statement summarising—
 - (i) how environmental considerations have been integrated into the plan or programme;
 - (ii) how the environmental report prepared under section 8 and the opinion of the Environment Authority prepared under section 14(9) were taken into account;
 - (iii) any opinions or representations made under sections 10, 11 or 16;
 - (iv) the reasons why the plan or programme, as approved, was chosen, taking into account other reasonable alternatives examined;
- (c) a description of the main negative effects on the environment that will arise or are likely to arise by implementing the plan or programme; and
- (d) a description of control measures and of how any negative effects caused to the environment by implementing the plan or programme as approved under section 17 or 18 will be monitored under section 21.

(6) Except for the function in subsection (4), the functions of the Environment Authority under this section are general delegated functions for the purposes of the 2007 Ordinance.

(7) The function of the Environment Authority under subsection (4) is a qualified delegated function for the purposes of the 2007 Ordinance.

Record keeping

- 20.**—(1) The Environment Authority must keep a register where the following are recorded—
- (a) the decision of the Environment Authority taken under section 6(1);
 - (b) the decision of the Environment Authority taken under section 7(8);
 - (c) the reports submitted under this Ordinance;
 - (d) the opinions or representations of any person submitted to the Environment Authority under sections 10 or 11;
 - (e) the opinion of the Environment Authority under section 14(9);
 - (f) every document submitted within the context of any public hearing carried out under section 15;
 - (g) every document submitted or sent by the Republic under section 16;
 - (h) the information referred to in section 19(5); and
 - (i) the results of monitoring the effects that the implementation of the plan or programme has or is likely to have on the environment under section 21.
- (2) The register must be available to the public and made available for inspection during normal working hours.
- (3) The functions of the Environment Authority under this section are general delegated functions for the purposes of the 2007 Ordinance.

Monitoring

- 21.**—(1) When a plan or programme to which this Ordinance applies is implemented the competent authority must monitor any significant negative environmental effects in accordance with the analytical plan referred to in paragraph 9 of Schedule 1 (information to be included in an environmental report) for the purpose of timely identification and intervention, in order to address the environmental consequences and be able to undertake appropriate remedial action.
- (2) For the purpose of compliance with subsection (1), control measures prescribed in other environmental legislation may be used with a view to avoiding duplication of monitoring.
- (3) The Environment Authority may also monitor the implementation of the plan or programme and inform the competent authority of its findings.
- (4) The functions of the competent authority and the Environment Authority under this section are qualified delegated functions for the purposes of the 2007 Ordinance.

Submission of monitoring report to the Environment Authority

- 22.**—(1) The competent authority must submit a monitoring report to the Environment Authority on a date specified by the Environment Authority in its opinion prepared under section 14(9), as regards the matters referred to in section 14(10)(c).
- (2) Where the Environment Authority considers it is necessary to do so, it may request that the Committee attends a meeting in order to make a reasoned proposal for remedial or preventative measures to be taken by the competent authority for the protection of the environment.
- (3) The functions of the competent authority and the Environment Authority under this section are qualified delegated functions for the purposes of the 2007 Ordinance.

Power to make Regulations

- 23.**—(1) The Administrator may make Regulations for the better implementation of this Ordinance.
- (2) Without prejudicing the generality of the provisions of subsection (1), the Administrator may make regulations to determine—

- (a) in more detail, the plans or programmes falling within the scope of the application of this Ordinance;
- (b) measures to control or monitor significant environmental effects of plans or programmes;
- (c) procedures to avoid duplication of the environmental assessment procedures emanating from this and other environmental legislation;
- (d) detailed procedures about the information given to local councils and the public, and consultations with them, including public hearings;
- (e) the content of environmental reports regarding particular categories of plans or programmes;
- (f) the qualifications of persons that may prepare an environmental report.

SCHEDULE 1

(Sections 12 and 21)

INFORMATION TO BE INCLUDED IN AN ENVIRONMENTAL REPORT

The information required in an environmental report under section 12(1)(a) is the information set out in the following paragraphs—

- 1.** An outline of the contents, main objectives of the plan or programme and the relationship with other relevant plans or programmes approved or submitted for approval in the wider area.
- 2.** A description of the current state of the environment and the characteristics of any area likely to be significantly affected by the implementation of the plan or programme, as well as reference to the relevant aspects of the current state of the environment and its likely evolution if the plan or programme were not implemented.
- 3.** Any existing environmental problems in the area where the plan or programme is to be implemented and whether the implementation of the plan or programme will have a positive or negative impact on these problems including, in particular, areas of particular environmental importance such as special areas of conservation and special protection areas prescribed under environmental legislation.
- 4.** An analysis of environmental protection objectives adopted or established at international level or in the Areas or in the Republic, which are relevant to the plan or programme, and the way in which these objectives and any environmental considerations have been taken into account during the preparation of the report.
- 5.** The likely significant effects on the environment.
- 6.** The measures envisaged to prevent, reduce and, as fully as possible, offset any significant adverse effects on the environment of implementing the plan or programme.
- 7.** An outline of the alternatives examined and the reasons for selecting the particular alternatives which are included in the plan or programme.
- 8.** A description of how the environmental assessment was undertaken, with reference to any difficulties that emerged due to technical difficulties in compiling and analysing the required information.
- 9.** An analytical plan for monitoring the environment which must include measures relating to the control and effective monitoring of, and timely intervention to offset, the likely effects of implementing the plan or programme in accordance with section 21.
- 10.** A non-technical summary of the information covered in the report as a separate section of the report.

SCHEDULE 2

(Sections 2, 6 and 8)

DETERMINATION OF THE LIKELY SIGNIFICANT EFFECT ON THE ENVIRONMENT

1. The following must be taken into account in determining whether or not a plan or programme is likely to have significant environmental effects.
2. The characteristics of the plan or programme having regard, in particular, to—
 - (a) the degree to which the plan or programme sets a framework for the approval or construction of projects or the promotion of other activities, with regard to location, nature, size and operating conditions, or by allocating land and natural resources;
 - (b) the degree to which the implementation of the plan or programme is likely to influence another plan or programme, including those in a hierarchy, and the effect that the approval of both plans or programmes is likely to have on the environment;
 - (c) the relevance of the plan or programme to the integration of environmental considerations, in particular with a view to promoting sustainable development;
 - (d) environmental problems related to or likely to emerge from implementing the plan or programme; and
 - (e) the relevance of the plan or programme to the implementation of environmental legislation and international environmental obligations, including but not limited to plans or programmes relating to waste management or water protection.
3. The characteristics of the effects that the plan or programme is likely to have on the environment and on the area likely to be affected, having regard, in particular, to—
 - (a) the probability, duration, frequency and reversibility of the environmental effects;
 - (b) the cumulative nature of the environmental effects;
 - (c) the transboundary nature of the environmental effects;
 - (d) the risks to human health or the environment, including but not limited to those relating to accidents;
 - (e) the magnitude and spatial extent of the effects by reference to the geographical area and size of the population likely to be affected;
 - (f) the value and vulnerability of the area likely to be affected, taking into account—
 - (i) the special natural or biological characteristics, or cultural heritage of the area;
 - (ii) any exceeded environmental quality standards or limit values as specified by environmental legislation or international treaty obligations; and
 - (iii) intensive land use; and
 - (g) the effects on areas or landscapes which have a recognised protected status within the island of Cyprus or internationally.

EXPLANATORY NOTE

(This note is not part of the Ordinance)

1. This explanatory note relates to the Environmental Assessment of Plans and Programmes Ordinance 2016 (“the Ordinance”). It has been prepared by the Office of the Attorney General and Legal Adviser in order to assist the reader of the Ordinance. It does not form part of the Ordinance. The Ordinance reflects, where relevant to the Areas, the Republic’s Assessment of the Effects of Certain Plans and/or Programmes on the Environment Law 2005 (Law 102(I)/2005), as amended. This note should be read in conjunction with the Ordinance. It is not, and is not meant to be, a comprehensive description of the Ordinance. So, when a section or part of a section does not seem to require an explanation or comment, none is given.

2. Section 3 summarises the strategic environmental impact assessment (“SEIA”) process. Section 4 sets out the purpose of the SEIA.

3. Section 5 sets the parameters for the types of plans or projects which require or may require a SEIA. Certain types of plans or programmes described in subsection (2) will always require a SEIA. Where such a plan or programme only relates to a small area of land, or minor modifications to an existing plan or programme, the Environment Authority may decide that a SEIA is not required on the basis that is not likely to have significant environmental effects. Before deciding that a SEIA is not required, the Environment Authority must first consult the Committee which assesses plans and programmes under the Republic’s Law.

4. Section 5(7) applies to plans or programmes relating to projects requiring approval under the Environmental Assessment Ordinance 2010, other than those to which subsection (2) applies. The Environment Authority may decide that such a plan or programme does not require a SEIA if it is not likely to have significant environmental effects.

5. Section 5(8) exempts from the scope of the SEIA process those plans or programmes prepared only for defence purposes or to safeguard against civil emergencies. Where the plan or programme is likely to have significant environmental effects the competent authority must consider alternative measures to mitigate or eliminate the effects. This function is not delegated.

6. In deciding whether or not a plan or programme requires a SEIA under section 6, the Environment Authority must take account of the Schedule 2 criteria when assessing whether it is likely to have significant environmental effects. The Environment Authority must also consult the specified persons and bodies. The Environment Authority’s decision must be recorded in the register kept in accordance with section 20 for the purpose of recording decisions under this Ordinance (the “register”).

7. Where a SEIA is required, section 7(1) provides that the competent authority (defined as the officer of the Areas who prepares the plan or programme) must not approve the plan or programme until the SEIA process is completed. For development plans under the town and country planning legislation, in accordance with section 7(3) and (4), the SEIA process must be completed during a development plan’s preparation and the area is considered to be a “white zone” during the preparatory stage.

8. Section 7(5) addresses duplication of SEIAs and section 7(6) the dates from which plans or programmes come within the scope of the Ordinance.

9. In accordance with section 8, the competent authority must prepare an environmental report where a plan or programme is within scope for a SEIA. If the competent authority is uncertain whether a SEIA is necessary for a plan or programme, the competent authority must obtain the Environment Authority’s opinion which, in turn, may obtain the Committee’s opinion. If the Environment Authority reaches a view that the environmental effects are not significant, it must request and take account of the Committee’s opinion, where provided, when reaching its final decision. If the competent authority disagrees with the Environment Authority’s decision, the competent authority may require the Environment Authority to consult the Committee.

10. In accordance with section 9, where the competent authority decides to prepare an environmental report, the competent authority may request the Environment Authority's opinion as to the format and content of the report. If the competent authority does so, the request must be accompanied by a land survey plan and other specified information.

11. On completion of the environmental report, section 10 provides that the report and the draft plan or programme must be submitted to the Environment Authority, the Area Officers and any community or municipal councils whose areas are likely to be affected by the plan or programme. An invitation to submit opinions or make representations must be published.

12. Section 11 sets out the competent authority's duty to consult and section 12 the information which must be included in an environmental report. Section 13 addresses a community or municipal council's duty to disclose relevant information.

13. Section 14 sets out the procedure for examining the environmental report including that the Environment Authority, having sent it to the Committee, must ask the Committee to attend a meeting. After the meeting, the Committee is asked to give its opinion and make recommendations taking into account the opinions and representations made during the consultation stages. The Environment Authority must then prepare a written opinion on the matters set out in section 14(10). Under section 14(11), the Environment Authority may decide that a condition or measure is essential. The Environment Authority must record its opinion in the register and publish a notification that is so recorded.

14. Where the Environment Authority makes a recommendation under section 15, the Administrator must decide whether there is to be a public hearing. Section 16 makes provision for consultation with the Republic if the implementation of the plan or programme would be likely to have a significant effect on their environment.

15. Before making a decision about a plan or programme, in accordance with section 17, the competent authority must take into account the environmental report, the representations made as a result of consultation and the Environment Authority's opinion. Under section 18, if the competent authority disagrees with a condition or measure which the Environment Authority regards as essential, the competent authority must refer the matter to the Administrator whose decision is binding.

16. Where the competent authority decides to approve a plan or programme, section 19 provides that the competent authority must inform the Environment Authority of its decision, any conditions attached and its reasons for reaching the decision, taking account of the alternatives considered. The Environment Authority is then under a duty to publish the decision and record it in the register.

17. Section 20 lists the various decisions, opinions and other matters which must be recorded in the register which is available for public inspection. Section 21 deals with monitoring the plan or programme for the purpose of identifying its environmental impact and intervening if necessary. Under section 22 monitoring reports must be submitted to the Environment Authority and it provides for proposals to be made for remedial action, where necessary.

18. Most of the functions placed on the competent authority and the Environment Authority are subject to qualified delegation. In essence, the Republic's officers, who carry out similar functions in the Republic, will act as the SBA Administration's officers when carrying out the functions for the Administration. Before doing so they must consult with their counterparts in the Administration. None of the functions placed on the Administrator are delegated to the Republic, and nor are the functions of deciding whether to approve the draft plan or programme.

19. The Ordinance is part of a package of environmental legislation relating to the assessment of plans and programmes. Amendments to the Game and Wild Birds Ordinance 2008 and the Protection and Management of Nature and Wildlife Ordinance 2007 are also part of that package.

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