

This is an unofficial translation. The binding version is the official Hebrew text.

Readers are consequently advised to consult qualified professional counsel before making any decision in connection with the enactment, which is here presented in translation for their general information only.

Planning and Building Regulations (Environmental Impact Statements) 5763-2003

By the power vested in me under sections 1 and 265 of the Planning and Building Law 5725-1965 (hereafter: the Law), and after consultation with the National Board for Planning and Building, I hereby make the following regulations:

Definitions

1. In these Regulations –

"Recharge area" – as defined in section 44(a)(3) of the Water Law 5719-1959;

"Road" – a road included in a national outline plan;

"Procedure for assessing environmental impact" – procedure as specified in regulation 5;

"Guidelines" – guidelines for the preparation of an environmental impact statement that were provided according to regulation 7;

"Environmental impact" – cumulative impacts of a plan on the environment including impacts –

- (1) in relation to existing or deposited plans in its vicinity;
- (2) regional;
- (3) geotechnical of substrata;

For this purpose, "cumulative impacts" – including positive impacts on the environment, as a result of the plan's implementation, including the rehabilitation of natural resources, the cessation, reduction or minimization of existing environmental nuisances;

"District Commission" – a Planning and Building District Commission, established under section 7 of the Law or another planning agency, in which a District Commission's powers have been vested;

"Environmental opinion" – an opinion that examines types of impacts of a plan or permit on the environment, including impacts on the unique conditions of the environment in which the plan or the permit is to be implemented, provided that the information about the totality of impacts on the environment of the activity proposed in the plan or permit is in the planning

agency's possession;

"Hazardous substance" – as defined in the Hazardous Substances Law 5753-1993;

"Environmental adviser" – the representative of the Minister of Environmental Protection in the planning agency;

"Commission engineer" – as defined in the Law;

"Planning agency" – in respect of a District Outline Plan and a National Outline Plan – the National Board; in respect of a plan within the competence of a District Commission as per its meaning in section 61A(a) of the Law – the District Commission; in respect of a plan within the competence of a Local Commission as per its meaning in section 61A(a) of the Law – the Local Commission;

"National Board" – the National Board for Planning and Building, established under section 2 of the Law;

"Environmental nuisance" – air, noise and odor pollution, water pollution, sea water pollution, pollution by waste, pollution by hazardous substances, pollution by radiation, and all as defined in the Prevention of Environmental Nuisances (Civil Suits) Law 5752-1992;

"District Planner" – as per its meaning in section 8 of the Law;

"Statement editor" – a person with knowledge and experience in the assessment of environmental impacts, who prepares the statement on his own or with the assistance of additional consultants;

"High tension electricity line" – a line that conducts electricity at a rated tension of 110,000 to 180,000 kilowatt, and includes poles and wires;

"Very high tension electricity line" – a line that conducts electricity at a rated tension of 400,000 kilowatt, and includes poles and wires;

"Local plan" – a plan that includes provisions of a local outline plan or of a detailed plan;

"Environmental impact statement" or "statement" – as defined in the Law.

Obligation of statement submission

2. (a) A submitter of a plan of the types specified below must submit an environmental impact statement to the planning agency:
 - (1) a local plan, a district outline plan for a defined area or a partial national outline plan for a defined area, each of which deals with

one or more of the following subjects: power plant, airport, seaport, marina, refinery, hazardous waste treatment or disposal site, land reclamation in a sea or lake;

- (2) a plan, whose implementation will, in the planning agency's opinion, cause significant impact on the environment and that deals with one or more of the following subjects, or applies to one of the following areas or to part of an area:
 - (a) industrial zones, in whose domain activity which is liable to pollute the environment is permitted, high tension or very high tension electricity lines, very active land transport centers, places for mass gatherings, centers for the production, storage or transport of polluting or hazardous materials, mining or quarrying sites;
 - (b) an area with high environmental sensitivity because of natural and landscape resources, including a shore, sea, lake, river and recharge area;
 - (c) an area exposed to environmental nuisances that are liable to hinder the implementation of the plan or to significantly impact on the proposed activity;
- (3) a plan whose implementation will, in the planning agency's opinion, have significant impact the environment, but the planning agency shall not decide whether implementation of the plan has significant environmental impact until after it hears the environmental adviser's position on the subject or after 21 days elapse from the time in which the planning agency requested the environment adviser's opinion on the matter.

Exemption from the obligation of statement submission

- 3. (a) Notwithstanding the provisions of regulation 2, if a plan was prepared in accordance with a plan of greater force, according to the scale of priorities prescribed in Article Eight of Chapter Three of the Law (hereafter: uppermost plan), and if provisions exist in the uppermost plan on the obligation to prepare a statement or an exemption from a statement obligation, then those provisions shall apply to the plans prepared by its virtue.
- (b) Notwithstanding that stated in regulation 2, a planning agency may exempt, in whole or in part, from the obligation to prepare a statement –
 - (1) in respect of a local plan prepared according to an uppermost plan or a plan that changes a previous plan, and a statement was prepared for the uppermost plan or for its predecessor which examined the relevant environmental impacts;
 - (2) in respect of a plan whose character, substance or degree of detail are not suitable for the implementation of a procedure for assessing environmental impacts and it is not possible to issue a building permit or authorization by virtue of it, provided that the plan shall note the obligation to conduct or complete a statement under these regulations as a condition for the deposit of a later

plant that will be prepared accordingly, and by virtue of which a building permit or authorization can be granted.

Obligation to consult the environmental adviser

4. A planning agency shall decide whether implementation of a plan said in regulation 2(2) can cause a significant impact on the environment or whether a plan may be exempted from the obligation of preparing a statement under regulation 3(b), only after it hears the environmental adviser's position on the matter, or after 21 days elapse from the time the planning agency requested the environmental adviser's opinion on the matter, whichever is earlier.

Procedure for assessing environmental impact

5. The following are the stages of the environmental impact assessment procedure:
 - (1) decision on the preparation of a statement and request for the preparation of draft guidelines by the planning agency;
 - (2) preparation of the draft guidelines – by the environmental adviser or according to regulation 7 the planning agency;
 - (3) submission of the guidelines – by the planning agency;
 - (4) preparation and submission of the statement – by the submitter of the plan;
 - (5) review of the statement and preparation of an opinion thereon – by the environmental adviser;
 - (6) discussion of the statement as part of the discussion on the plan, and decision by the planning agency on both and on the opinion.

Time for statement submission

6. (a) If a plan, for which it is obligatory to prepare a statement under regulation 2, is submitted to a planning agency and the planning agency does not reject it, then the planning agency shall not decide to deposit the plan before an environmental impact assessment procedure is implemented for it; in respect of this subregulation, transferring a national outline plan for the comments of the District Commission under section 52 of the Law shall be deemed the deposit of the plan.
- (b) Notwithstanding the provisions of subregulation (a) –
 - (1) the planning agency may decide, for exceptional and special reasons that shall be recorded, that a plan for which it is obligatory to prepare a statement under regulation 2(2) or (3) shall be deposited prior to the preparation of the statement, provided that the planning agency is satisfied, after consulting with the environmental adviser, that it has sufficient information about the plan's environmental impact, as required for its deposit, and that the plan will not be approved before the statement is prepared and the stages specified in regulation 5 have been completed;
 - (2) a statement that must be prepared according to provisions in an uppermost plan, as said in regulation 3(a), shall be prepared at the time stated in those provisions.

- (c) If the planning agency does not require the submitter of the plan to prepare and submit a statement and the plan is deposited, or if the submitter of the plan was exempt from the obligation to prepare a statement under regulation 3, it may require the submitter of the plan to prepare and submit a statement at any stage of plan processing until its approval, if new data were presented before it that make that necessary, provided that the submitter of the plan is given an opportunity to present his arguments before the planning agency decides on the matter.
- (d) A planning agency may, if it deems this necessary, order a statement to be prepared and submitted in two parts according to its guidelines, so that the first part examines the preferred alternative from the environmental standpoint, and the second shall be prepared and submitted after the planning agency decides on the preferred alternative; the second part may be prepared and submitted for the same plan, or for a later plan, by virtue of which it will be possible to issue building permits, as prescribed in regulation 3(b)(2).

Guidelines for statement preparation

7. (a) The planning agency shall instruct the environmental adviser to prepare draft guidelines for a plan, for which it is obligatory to prepare a statement under regulation 2, and it shall provide him with a copy of the plan's documents; a copy of the planning agency's request to the environmental adviser shall be sent to the submitter of the plan.
- (b) The guidelines shall be given according to the type of plan, its level, scope and degree of detail, and they shall state the scope and degree of detail of the required statement.
- (c) The environmental adviser shall submit draft guidelines to the planning agency within 45 days of the day the plan was delivered to him; if the environmental adviser does not submit the draft guidelines on time, then the Commission engineer, the district planner or the Director of the Planning Administration in the Ministry of the Interior, as the case may be, may submit draft guidelines on their part to the planning agency, after consulting with a professional factor as deemed appropriate, and within 45 additional days.
- (d) The planning agency shall discuss the draft guidelines prepared by the environmental adviser, the Commission engineer, the district planner or the Director of the Planning Administration, as the case may be, and decide to approve them with or without changes or reject them within twenty days of the day the proposal was delivered to it, provided that a representative of the Local Commission, within whose area the plan applies, the environmental adviser and the submitter of the plan are invited to the discussion of the guidelines and that they are given an opportunity to present their position on the draft guidelines.
- (e) The planning agency shall note in the guidelines to the submitter of the plan the time for submission of the statement, which shall not exceed three years from the time the guidelines are approved, while taking

consideration of the type of plan, its level, scope and detail.

- (f) The planning agency shall send a copy of the guidelines, as approved by it, to the submitter of the plan and to the environmental adviser.

Contents of the statement

8. (a) The submitter of the plan, who receives the guidelines, shall prepare the statement in detail and accurately in accordance with the guidelines.
- (b) The statement shall include full and precise professional information, as well as the findings that arise out from it, on all or some of the matters specified below, according to the type, level, scope and detail of the plan:
 - (1) description of the environment to which the plan relates, as defined in the guidelines; for this purpose, "environment" – including its fauna and flora and the landscape in the area, which in the environmental adviser's opinion may, in the near or distant future, be impacted by the plan's implementation;
 - (2) examination of the proposed plan's advantages and disadvantages in relation to the environment, and also, if required by the guidelines, reference to the environmental implications of other alternatives to the plan's proposed location, the alternative not to implement that which is proposed in the plan or technological alternatives to that which is proposed in the plan, and additional matters that relate to the plan's location, scope and character, all as the case may be;
 - (3) description of the activity resulting from implementation of the plan, which will relate to stages of building and construction, the period of activity and its conclusion, including in respect of the following:
 - (a) proposed land uses within the area of the plan;
 - (b) the natural resources, such as land, water and energy that will be utilized for implementing the plan;
 - (c) the infrastructures that will be required to implement the plan, such as transport, supply of water and energy, collection and treatment facilities for sewage and waste;
 - (4) specification and assessment of the totality of expected impacts on the environment and of the environment of the plan area, as a result of the plan's implementation, including the infrastructures required for its implementation;
 - (5) the findings of the statement and proposals for means of preventing negative environmental impacts, which should be included in the plan's provisions; for this purpose, "means of preventing negative environmental impacts" – means for the prevention or reduction of irreversible impacts and nuisances, savings in the exploitation of natural resources, monitoring or follow up measures or other measures designed to protect the environment.

Statement submission

9. (a) A submitter of a plan, who prepares a statement according to regulation 8, shall submit it to the planning agency, to the Local Commission within whose area the plan applies, and to the environmental adviser in the number of copies noted in the guidelines.
- (b) The submitter of the plan shall submit the statement to the planning agency until the date stated in the guidelines; the planning agency may extend the time for submission of the statement at the request of the submitter of the plan, provided that the request was reasoned in writing; however, if three years elapsed from the date the guidelines were approved, then the planning agency shall not extend the time for submitting the statement without first consulting the environmental adviser.

Review of compliance of the statement with the guidelines

10. (a) When a statement has been submitted to an environmental adviser under regulation 9(a), then he shall communicate one of the following to the submitter of the plan and the planning agency, within thirty days of receipt of the statement –
 - (1) the submitted statement responds to the guidelines and its contents will be examined accordingly;
 - (2) the submitted statement does not respond to all the guidelines or requires corrections and additions, which shall be specified in the notice;
 - (3) the submitted statement is deficient to a degree that makes it necessary to prepare and submit a new statement, because of one or more of these reasons:
 - (a) lack of substantive information;
 - (b) presentation of misleading information;
 - (c) drawing of conclusions which do not derive from the information included in the statement or its findings.
- (b) If the submitter of the plan receives notice from the environmental adviser, as said in subregulation (a) (2) or (3), then he shall submit additions to the statement or a new statement, as the case may be, to the bodies enumerated in regulation 9(a), and the provisions of subregulation (a) shall apply, as if a statement had been submitted.
- (c) If the submitter of the plan disagrees with all or part of the environmental adviser's notice, then, within thirty days after receipt of the notice, he may request a hearing on the matter before the planning agency and the planning agency's decision shall be final; the planning agency shall not decide on a said application before providing the environmental adviser an opportunity to respond to the application within thirty days of its receipt.

Environmental adviser's opinion

11. (a) If the environmental adviser decides as said in regulation 10(a) (1) or if the planning agency that discusses the application under regulation 10(c)

decides that the submitted statement responds to the guidelines, then the environmental adviser shall review the statement and deliver his opinion and recommendations to the planning agency and to the submitter of the plan.

- (b) The environmental adviser's opinion shall relate to the matters included in the statement, according to the parts of the statement and to the subjects specified in regulation 8(b).
- (c) The environmental adviser shall submit his opinion to the planning agency within sixty days of the day he informed the submitter of the plan that the statement responds to the guidelines, as said in regulation 10(a) (1), or from the day on which the planning agency informed the environmental adviser that it decided, under regulation 10(c), that the statement responds to the guidelines, all as the case may be.

Discussion of the statement at the planning agency

12. (a) If the environmental adviser does not submit his opinion within sixty days of the day a statement was submitted to him that responds to all the guidelines, and the planning agency did not extend the time for the opinion, then the planning agency may discuss the plan or the statement without the environmental adviser's opinion.
- (b) A District Commission, which discusses a plan within its authority as defined in section 61A (a) of the Law, shall discuss the statement or the environmental adviser's opinion only after it receives the opinion of the Local Commission, in whose area the plan is located, about the statement and the opinion, or after thirty days have elapsed from its application to the Commission, whichever is earlier.
- (c) Where a statement as said in regulation 9 and the environmental adviser's opinion on it, as said in regulation 11, are submitted to a planning agency or where the date for submitting the opinion has passed, as said in subregulation (a), it shall discuss the plan and the opinion as part of the discussion on the plan; if the planning agency decides to deposit the plan or to deposit it conditionally, then it shall also decide which provisions for the prevention of negative environmental impacts shall be included in the provisions of the plan, as it deems necessary; if the statement is prepared after deposit of the plan under regulation 6(b)(1) or (c), then it shall also decide which provisions for the prevention of negative environmental impacts shall be included in the plan's provisions as a condition for its approval, as it deems this necessary.
- (d) The guidelines, the statement, the environmental adviser's opinion and the planning agency's decision on the matter shall constitute background documentation of the plan and shall be open for public scrutiny from the time of the plan's deposit, and for a national outline plan – with its transfer for comments to the District Commissions; a statement prepared at a later stage, according to regulation 6(b) (1) or (c) – after the statement was discussed in the planning agency.

Statement by another planning agency

13. (a) If the District Commission prepares a district outline plan, with provisions of a detailed plan, and if the plan is of one of the types of plans enumerated in regulation 2, then the District Commission may prepare a statement for it.
- (b) If the District Commission prepared a statement under subregulation (a), then the provisions of these regulations shall apply to the statement, *mutatis mutandis*.
- (c) If the statement was prepared at the request of the District Commission under this regulation, then the National Board may –
 - (1) adopt the guidelines for the statement and the statement and its conclusions, in whole or in part;
 - (2) reject the guidelines for the statement and the statement and issue new guidelines or require a new statement in their place;
 - (3) require additions to the guidelines or to the statement, or decide that the plan does not require a statement;
 If a new statement is prepared or the said statement is completed, then the National Board shall discuss it under regulation 12.

Responsibility of the submitter of the statement

14. (a) A statement shall be prepared by a statement editor on behalf of the submitter of the plan.
- (b) The statement editor is responsible for its preparation and contents, including the data that appear in it, and for its submission; if parts of the statement were prepared with the assistance of other advisers, this shall be noted in the statement.
- (c) The statement editor shall attach to the statement his affidavit according to Form 1 in the Schedule, certifying that the data of the statement he submitted, his conclusions and recommendations are, to the best of his professional knowledge, correct and correspond to the guidelines, and he shall also attach an affidavit according to Form 2 in the Schedule from every adviser who assisted in the preparation of the statement, specifying his expertise and training and certifying that the contents of the statement reflect his professional opinion.
- (d) The statement editor, as per its meaning in this regulation, shall submit, together with the statement, evidence that proves that he meets the conditions prescribed in regulations under section 83B of the Law.

Environmental opinion, saving of laws and powers

15. The provisions of these regulations shall not derogate –
 - (1) from the authority of a planning agency to request the submission of an environmental opinion at any stage of the discussion on the plan, to assist it in the environmental review of the plan, when an environmental impact statement was not requested for the plan under these regulations, provided that it gave the submitter of the plan an opportunity to present his position on the matter prior to its request of the said opinion; the provisions of these regulations shall not apply to a

said environmental opinion;

- (2) from a Local Commission's authority to request the preparation of an environmental opinion as a condition for granting a building permit, under the provisions of regulation 16 of the Planning and Building Regulations (Application for a Permit, its Conditions and Fees) 5730-1970; for purposes of this paragraph, "Local Commission" – as defined in the said regulations.

Statement for a road plan and a national infrastructure plan

16. (a) Only regulations 1, 8, 14 and 15 shall apply, *mutatis mutandis*, to a road plan according to Article Six "A" of Chapter Three of the Law.
- (b) Only the definitions of "environmental nuisance" and "statement editor" in regulation 1 and regulations 8 and 14 shall apply, *mutatis mutandis*, to a national infrastructure plan under Article Five "B" in Chapter Three of the Law.

Repeal

17. The Planning and Building Regulations (Environmental Impact Statements) 5742-1982 are repealed.

Commencement

18. These regulations, except for regulation 14(d), shall enter into force three months after their publication and regulation 14(d) shall enter into force on the day of commencement of regulations under section 83B of the Law.

Transitional provisions

19. (a) These regulations shall not apply to a plan, for which a decision to deposit was made prior to the commencement of these regulations and the old regulations shall apply to it, but the planning agency may decide that the provisions of these regulations apply to a said plan for reasons of efficiency or shortening of proceedings, if it is satisfied that this will not harm the submitter of the plan.
- (b) Guidelines for the preparation of an environmental impact statement, which were issued prior to the commencement of these regulations under the provisions of the old regulations, shall remain in effect and a statement under them may be submitted in accordance with the old regulations for three years from the day these regulations enter into force.

SCHEDULE

Form 1
(Regulation 14(c))

Plan No _____

The plan is being discussed by _____ (name of the planning agency)

Affidavit of the Statement Editor

I, the undersigned _____, ID No _____, after I was cautioned that I must say the whole truth and only the truth, and that I shall be liable to the penalties prescribed in the Law if I do not do so, hereby declare as follows:

1. I prepared the environmental impact statement for plan no. _____, which bears the name _____ (name of the plan) (hereafter: the statement).
2. I have the qualifications necessary under any law to prepare this statement, according to the attached documents.
3. I prepared the statement on my own and with the assistance of additional advisers, as specified below:

Adviser name Field of expertise & training Statement section in which the adviser assisted

- A. _____
- B. _____
- C. _____
4. I am responsible for the preparation of the statement and for its contents, including its data, conclusions and recommendations
5. I certify that, according to my best professional knowledge, the data in the statement are correct and they comply with the guidelines given by the planning agency on _____.
6. I declare that the above name is my name, that the signature below is my signature, and that the contents of this affidavit are true.

Signature _____.

Certification

I, the undersigned _____, Adv., hereby certify that _____, whom I know personally / identified by ID card no _____, appeared before me on _____, and after I cautioned him that he must say the whole truth and only the truth and that he will be liable to penalties prescribed by Law if he does not do so, he affirmed that the above declaration is true and signed it in my presence.

Signature _____

Form 2
(Regulation 14(c))

Plan No _____.

The plan is being discussed by _____ (name of the planning agency)

Affidavit of Adviser to the Statement Editor

I, the undersigned _____, ID No. _____, after I was cautioned that I must say the whole truth and only the truth, and that I shall be liable to the penalties prescribed by Law if I do not do so, hereby declare as follows:

1. I assisted _____ (name of statement editor) in the preparation of the environmental impact statement for plan no _____, which bears the name _____ (name of the plan) (hereafter: the statement).
2. I have the qualifications necessary under any law for preparation of this statement, according to the attached documents.
3. I assisted in the preparation of chapters / sections _____ in the statement.
4. I advised on the subjects specified in chapters / sections _____ in the statement, and the contents of the statement reflect my professional opinion.
5. I declare that the above name is my name, that the signature below is my signature, and that the contents of this affidavit are true.

Signature _____

Certification

I, the undersigned _____, Adv., hereby certify that _____, whom I know personally / identified by ID card no. _____, appeared before me on _____, and after I cautioned him that he must say the whole truth and only the truth and that he will be liable to penalties prescribed by Law if he does not do so, he affirmed that the above declaration is true and signed it in my presence.

Signature _____.