

SUBSIDIARY LEGISLATION 549.46**ENVIRONMENTAL IMPACT ASSESSMENT
REGULATIONS**

22nd December, 2017

*LEGAL NOTICE 412 of 2017, as amended by Act XXI of 2020 and
Legal Notice 448 and 455 of 2020.***PART I
INTERPRETATION AND ADMINISTRATION**

1. (1) The title of these regulations is the Environmental Impact Assessment Regulations. Citation and scope.

(2) These regulations transpose and implement the provisions of:

(a) Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment (codification), as amended by Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014; Directive 2011/92/EU as amended by 2014/52/EU.

(b) the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention) of the United Nations Economic Commission for Europe, and its First and Second Amendments; and UNECE Espoo Convention and its amendments.

(c) the provisions of Regulation (EU) No. 347/2013 of the European Parliament and the Council on guidelines for trans-European energy infrastructure, with regard to the co-ordination of environmental assessment procedures arising from the requirements of Council Directives 2014/52/EU, 92/43/EEC and other related Union legislation. EU Regulation No. 347/2013.

(3) The objective of these regulations is to provide for a high level of protection of the environment and of human health, to contribute to the effective integration of environmental considerations into the permitting procedure for public and private projects, and to ensure that public and private projects which are likely to have significant effects on the environment are adequately assessed before any development consent is granted. Objective.

2. In these regulations, unless the context otherwise requires: Interpretation.

"the Aarhus Convention" means the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention) of the United Aarhus Convention.

Nations Economic Commission for Europe;

Cap. 549.

"the Act" means the Environment Protection Act;

"agent" means a person representing the developer's interests, and includes the developer's architect;

"aquifer" means all underground waters in geological formations, and also includes deep fossil waters;

"the Authority" means the Environment and Resources Authority established under the Act, and includes any person delegated or commissioned thereby or otherwise acting lawfully on its behalf;

"baseline" means the existing environmental conditions of the area being assessed, as a reference against which changes and effects are predicted, measured, analysed and evaluated; and "baseline study" means an investigation, identification, clarification or interpretation thereof;

"consequent development" means any additional intervention or change in land use or pressure for further development, that is entailed, rendered necessary, encouraged or otherwise triggered by the project or by its ancillary operations or by the interaction of the project with its surroundings, or with natural or human processes or with other projects;

"construction" includes all site preparation works for the project and its ancillary infrastructure, such as clearing of land, excavation, demolition, dismantling, construction, levelling, installation of underground components and finishing works, and also includes all temporary interventions such as the installation and removal of construction camps, site offices, storage areas, plant and machinery, access arrangements, or other temporary facilities ancillary thereto, as well as any consumption, management or disposal of raw materials and by-products resulting therefrom;

"consultant" means an expert who is sufficiently competent in the relevant environmental field as may be required for the purpose of the environmental impact assessment;

"consultees" means Government entities, local councils or any other person, organisation or entity which the Authority might request the coordinator to consult, or which the Authority might consult;

"coordinator" means the consultant responsible for coordinating the environmental impact assessment;

"cumulative" and "cumulation" mean the combined effects of two or more projects or parts of projects, or of a project and the existing baseline, on the environment, and include:

- (a) synergistic and antagonistic effects;

(b) combination with any effects already present in the current baseline; and

(c) the impacts of consequent or ancillary development;

"decommissioning" includes all works connected with the discontinuation or removal of a project and its ancillary infrastructure, such as clearing of land, demolition or dismantling, removal of underground components, and site reinstatement or restoration, and also includes all temporary interventions such as the installation and removal of construction camps, site offices, storage areas, plant and machinery, access arrangements, or other temporary facilities ancillary thereto, as well as any consumption, management or disposal of raw materials and by-products resulting therefrom;

"developer" means the developer seeking development consent or intending to implement the project, and includes both private and public entities;

"development" has the same meaning assigned to it by the Development Planning Act, provided that: Cap. 552.

(a) a project or intervention falling within the scope of these regulations shall still be considered as development requiring screening or assessment as well as consent for the purpose of these regulations;

(b) construction, excavation, demolition, levelling, site engineering, extraction of mineral resources, change in land use or other installations or schemes, as well as other material interventions in the site surroundings and landscape shall be considered as development; and

(c) the continued operation of an existing facility that is duly covered by an existing valid development consent shall not, per se, be considered as development, as long as: (i) there are no alterations, omissions, or additional interventions relative to the current consent; (ii) there is no extension of the lifetime of the facility beyond what has been assessed and permitted; and (iii) the facility does not occupy a larger or different site;

"development consent" or "development permit" means the decision of the permitting authority which entitles the developer to proceed with the project, as well as any equivalent consent arising from a development order or other instrument;

"the Directive" means Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment (codification), as amended by Directive 2014/52/EU of the European

Directive 2011/92/
EU as amended by
2014/52/EU.

Parliament and of the Council of 16 April 2014;

"effect" means an effect on the environment, and includes:

- (a) direct effects on the environment, which are caused by a project or by any related intervention or action;
- (b) indirect and secondary effects on the environment, caused by a project or by related interventions or actions, which may be later in time or further removed in distance, or which may arise indirectly as a result of: changes induced by the project or intervention; displacement of other uses; opportunity cost of the proposed use or commitment; or interaction of the project or intervention with natural or anthropogenic forces or with the surrounding environment;
- (c) cumulative effects on the environment; and
- (d) effects on human health and safety, socio-economic conditions, natural and cultural heritage, and quality of life, resulting from alterations to the environment;

"environmental impact assessment" or "EIA" means the process of identifying, predicting, evaluating, avoiding and mitigating the relevant environmental effects of proposed projects and physical interventions prior to relevant decisions and commitments being made, and includes, as detailed further in these regulations:

- (a) the preparation of an EIA report by the developer;
- (b) the carrying out of consultations, including consultations with Government entities and the public concerned;
- (c) the examination, by the Authority, of the EIA report and any supplementary information provided by, or received from, the developer or through consultations;
- (d) the reasoned conclusion by the Authority on the significant effects of the project on the environment, taking into account the results of the examination referred to in point (c) and its own supplementary examination; and
- (e) the integration of the Authority's reasoned conclusion into the decision on the project or into any other relevant decision;

"EIA report" means the document in which the results of the consultants' investigations and evaluations are presented by the consultants in a coordinated manner to the Authority, to decision-makers, to the public, and to the public concerned, as part of the

environmental impact assessment;

"the Espoo Convention" or "the Convention" means the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention) of the United Nations Economic Commission for Europe, including its First and Second Amendments; Espoo Convention.

"extension" means any addition to a project including but not limited to increases in total area, length, height, depth, volume, capacity, land take, scale or intensity of use;

"geology" means the scientific study of the origin, history, structure, content and composition of the earth including its rocks, minerals, land forms, layers, soils, fossils, and other related features, and the physical, chemical and biological changes and processes that have created, formed, shaped, eroded, or affected them or which may have such effects thereon, and also includes lithology, petrology, stratigraphy, geomorphology, palaeontology, hydrogeology, geological conservation and geotechnical considerations as applied for the purposes of these regulations;

"gross floor area" means the total combined area of all the floors of a building as measured externally without any deduction of internal yards, the spaces overlying them or the thickness of internal or external walls, and also includes all cellars, basements and roofs;

"impact" has the same meaning as "effect";

"landscape" means the overall character of a geographic area and its sense of place, as an overall result of the interaction of natural and/or anthropogenic factors, and includes the environmental characteristics, forms, processes, backgrounds and structures, the physical features and the scenery of the area and its particular combinations of geology, geomorphology, landform, water bodies, soils, vegetation, land uses, field patterns, human settlement, history, local traditions and other related factors;

"local council" and "locality" have the same meaning as assigned in the Local Government Act; Cap. 363.

"the Minister" refers to the Minister responsible for the environment;

"operational phase" means the period during which the project is wholly or partly in use or reasonably ready for such use;

"outside development zones" or "ODZ" means land outside the boundary of an area zoned for development in a currently approved planning scheme or a currently approved local plan;

"permitting authority" means any public authority that is responsible for issuing, refusing or otherwise regulating any

development consent, and includes any person acting lawfully on behalf of such authority;

"precautionary principle" shall have the same meaning as assigned to it in the Act, and specifically includes the adoption or taking of preventative measures or stances when there are reasonable grounds for concern that threats of potentially significant or potentially irreversible damage to the environment might occur. Furthermore, the lack of scientific certainty shall not be used as a reason or excuse for postponing measures to avoid, reduce, prevent, anticipate, eliminate, control, reverse, repair or otherwise address such threats or damage to the environment as may be relevant to the project and its location;

"project" has the same meaning as "development";

"project description statement" means a structured document containing a description of the site and the proposed project, in sufficient detail to enable an identification of the likely effects and implications on the environment;

"project fragmentation" means the fragmentation or piecemeal splitting of a project into smaller developments, such that the proper comprehensive evaluation of the overall project and its environmental impacts is impeded, impaired, hindered, jeopardised, distorted, circumvented, complicated or rendered ineffective by an understated, misleading, incomplete, ambiguous or late indication of the actual scale, characteristics, context and or real implications of the project;

"protected" means any area, property, building, site, structure, natural resource, natural feature or cultural heritage which is specifically protected, scheduled or designated for protection or conservation under the Act or under any other law, even if on a temporary or provisional basis. Provided that the airport precincts shall not, per se, be considered as a protected area notwithstanding their inclusion in the list of Bird Sanctuaries in the Conservation of Wild Birds Regulations;

S.L.549.42.

"public" means one or more natural or legal persons, as well as any associations, organisations or groups thereof that are in accordance with national law;

"public concerned" means the public affected or likely to be affected by, or having an interest in, the environmental decision-making procedures relevant to these regulations, and also includes non-Governmental organizations that promote environmental protection and that meet the relevant requirements at law;

"public hearing" means a consultation meeting open to the public, organized with the aim of explaining the details of the proposed project or intervention as well as the findings of the EIA report, and to elicit feedback from the public in attendance;

"Register" means the register of consultants established under

the provisions of the Act;

"Registration Board" means the Registration Board established under the provisions of the Act;

"screening" means the decision on whether a proposal should be subject to an environmental impact assessment or to any other provisions of these regulations;

"scoping" means the process of defining the scope, extent, and level of detail of the environmental impact assessment, and includes the identification of environmental issues, baselines, geographical areas of influence, methodologies, alternatives and impacts to be considered, and the formulation of terms of reference;

"significant" requires consideration of both context and intensity:

(a) context includes:

(i) the proposed siting and surroundings of the project;

(ii) the public concerned and material interests of relevance to the environment;

(iii) the aspects of the environment likely to be affected;

(iv) the prevailing conditions in, and the state of preservation of, the surrounding environment; and

(v) the existence of any species, habitats or features that are unique, valuable, endangered, rare on a national or localised basis, vulnerable, threatened with extinction, possibly extinct, restricted in distribution on the island, endemic to a threatened site, of unknown status, of unfavourable conservation status, declining, or otherwise at risk of having their integrity jeopardized; whereas

(b) intensity means the severity of impact, and requires a consideration of the following factors:

(i) whether the impact is beneficial, adverse or neutral;

(ii) the degree to which the project affects the quality of the environment, or affects public health or safety as a consequence of its impacts on the environment;

(iii) the vulnerability and resilience of the surrounding environment;

(iv) the degree to which the possible effects on the environment are uncertain, or involve unique, unknown or complicated risks;

(v) the degree to which the project may establish a precedent for future interventions with potentially significant effects, or represents a commitment in principle about a future consideration or intervention;

(vi) whether the project is related to other interventions with individually insignificant but cumulatively significant impacts;

(vii) whether the project may necessitate, entail, trigger, attract, commit, hinder or compromise any other related or unrelated intervention such that the ensuing implications may result in indirect pressures on the environment, near the site or away from it;

(viii) whether the project or its direct or indirect implications pose a threat of violation of any law, plan, or provision for the protection or conservation of the environment, or a threat to any current protective status or to the effectiveness thereof;

(ix) whether the project and its effects are: permanent or temporary (and, in the latter instance, the duration of the effect); reversible or irreversible (and, in the former instance, the ease and feasibility of complete reversal and the confidence with which such reversal can be secured); short-term, medium-term or long-term; and short-range, medium-range or long-range; and

(x) the extent, profoundness and magnitude of the impact on one or more environmental aspects of relevance to the assessment;

"site", "area" or "location" means any geographic area including any land, sea or water body, and also includes its surface, subsurface and underground as well as its seabed and airspace where relevant, and shall also include a single property or more than one property irrespective of who is the owner;

"site area" means the total area of land covered by the project and its ancillary structures and interventions. as well as any tract of land that is likely to be committed, physically altered or taken up in connection with any phase of the project or detached or isolated from its surroundings as a consequence thereof; and includes any land that will

be occupied by buildings, structures, yards, gardens, interstices, enclosures, enclaves, spaces between buildings or structures, roads, tracks, artificially surfaced areas, planting and/or landscaping, as well as any other lands that will be similarly affected; but excludes any other land beyond the outermost extent of the project that will not be affected in any way by the project and its ancillary interventions, irrespective of whether or not such other land happens to form part of the developer's property;

"State" means a country which is a member of the European Union or a party to the Convention on Environmental Impact Assessment in a Transboundary Context of the United Nations Economic Commission for Europe, and includes any land, sea, water bodies and airspace under such country's jurisdiction; Espoo Convention.

"supra-national" means at European Union level, or at the level of any other international, bilateral or multi-lateral convention, protocol, commitment, agreement or obligation which is binding on Malta;

"technical studies" means the studies prepared by the consultants for particular aspects of the environmental impact assessment, and includes baseline studies;

"transboundary impact" means any impact, occurring wholly or partly in a State, that is caused by a project or intervention which is situated wholly or partly in another State;

"Tribunal" means the Tribunal as defined in the Act and in the Environment and Planning Review Tribunal Act; and Cap. 551.

"vetting" means the determination of whether a project falls within the scope of these regulations.

3. The Environment and Resources Authority shall be the competent authority responsible for the administration, implementation and enforcement of these regulations, except where otherwise specified in these regulations. Administration of these regulations.

PART II EXEMPTIONS

4. (1) The Authority may decide, on a case-by-case basis, not to apply these regulations to projects, or parts of projects, having national defence as their sole purpose, if there is a declaration in writing from the Minister responsible for national defence, stating that the application of these regulations could result in the disclosure of confidential information which would undermine defence purposes. In such eventuality, the Authority shall still seek to assess the environmental consequences of the project insofar as reasonably possible, and shall advise the relevant Government entity accordingly and in due time, but it shall not disclose the information to the public. Exemptions: Defence.

Response to civil emergencies.

(2) The Authority may decide, on a case-by-case basis, not to apply these regulations to projects, or parts of projects, having the response to civil emergencies as their sole purpose, if there is a declaration in writing from the Minister responsible for the response to civil emergencies, stating that the application of these regulations would have an adverse effect on such purposes. In such eventuality, the Authority shall advise the relevant Government entity with respect to any possible environmental consequences caused by the project and possible mitigation measures.

Projects adopted by a specific act of national legislation.

(3) Without prejudice to the other provisions of these regulations and to Part VII, a project that is adopted by a specific act of national legislation may be exempted from the provisions relating to public consultation laid down in these regulations, provided that the objectives of these regulations are met and the submitted project is substantially the same as that adopted by the act in question. The Minister shall inform the Commission of the European Union of any such exemption at least every two years, as from 16 May 2017 onward.

Exceptional cases meriting exemption.

5. (1) Without prejudice to Part VII, the Authority may, in exceptional cases, exempt a specific project from the provisions of these regulations, where the application of those provisions would result in adversely affecting the purpose of the project, provided the objectives of these regulations are met. In such case the Authority shall, in a timely manner prior to the granting of consent:

(a) consider whether another form of assessment would be appropriate;

(b) make available to the public concerned the information obtained under other forms of assessment referred to in paragraph (a), the information relating to the decision granting exemption, the reasons for granting exemption, and the terms, conditions and limitations of the exemption; and

(c) inform the Minister that this sub-regulation has been used, and provide him with the reasons justifying the exemption and with the information referred to in paragraphs (a) and (b).

(2) The Minister shall, upon receipt of this information, and prior to the granting of the development consent, inform the Commission of the European Union accordingly.

**PART III
GENERAL PROVISIONS**

6. (1) Before any consent is given for a project likely to have significant effects on the environment due to, inter alia, its nature, size, scale, position or location, such project shall be subject to a requirement for development consent as well as an assessment of its effects on the environment in line with these regulations. No development consent shall be granted authorising any such project unless the required assessment or screening, as relevant, has been duly undertaken and completed in accordance with these regulations.

Requirement for development consent and Environmental Impact Assessment or Screening.
*Amended by:
L.N. 455 of 2020.*

(2) The environmental impact assessment, compliant with these regulations, shall be integrated into the development consent procedure in accordance with the regulations and into any other relevant procedures or binding decisions that may be required to comply with these regulations, or otherwise synchronised with such procedures and decisions as the Authority deems most appropriate to ensure effective and timely evaluation of the environmental implications of the project and adequate factoring into the relevant decisions.

7. (1) The environmental impact assessment shall identify, describe and assess in an appropriate manner, in the light of each individual case, the direct and indirect significant effects of a project on the following factors, as detailed further in the Schedules:

Aspects to be addressed in the Environmental Impact Assessment.

(a) population and human health;

(b) biodiversity and ecology, with particular but not exclusive attention to species and habitats protected under other national and European Union legislation, including the Conservation of Wild Birds Regulations and the Flora, Fauna and Natural Habitats Protection Regulations;

S.L.549.42.
S.L.549.44.

(c) the physical environment, land, soil, water, air and climate;

(d) material assets, cultural heritage and the landscape;

(e) the interaction between the factors referred to in paragraph (a) to (d) above.

(2) The effects referred to in sub-regulation (1) on the factors set out therein shall include the expected effects deriving from the vulnerability of the project to risks of major accidents or disasters that are relevant to the project or its location.

Supplementary provisions on other environmental assessments.

S.L.549.44.
S.L.549.61.
S.L.549.76.

S.L.549.77.
S.L.549.100.

L.549.44.

Already-existing assessments.

Procedures for projects of common interest.

S.L.549.42.
S.L.549.44.

S.L.552.13.

8. (1) The provisions of these regulations shall apply notwithstanding, and without prejudice to, any other assessment as may be required by law, including but not limited to any assessment under: the Flora, Fauna and Natural Habitats Protection Regulations, the Strategic Environmental Assessment Regulations, the Industrial Emissions (Framework) Regulations, the Industrial Emissions (Integrated Pollution Prevention and Control) Regulations, the Water Policy Framework Regulations and other relevant legislation.

(2) Where an assessment of the effects of a project on the environment is also required by the Flora, Fauna and Natural Habitats Protection Regulations, the Authority shall, where appropriate, coordinate the individual assessments of the environmental impact of a particular project in order to optimally fulfil the requirements of that legislation as well as of these regulations. The Authority may also adopt such coordinated approach with regard to the other legislation mentioned in sub-regulation (1). In all instances, the Authority shall be considered as the competent authority for the coordinated assessment.

(3) In the interest of improved synergy and avoidance of duplication:

(a) an environmental impact assessment or screening shall take into account the information produced by, and the results of, other environmental assessments already carried out under these regulations or under the legislation identified in sub-regulation (1), insofar as relevant, available and still valid; and

(b) an assessment under the legislation identified in sub-regulation (1) shall take into account the information produced by, and the results of, environmental impact assessments already carried out under these regulations, insofar as relevant, available and still valid:

Provided that, in both instances (a) and (b) hereof, the current assessment shall not be constrained by, nor obliged to agree with or rely on, the content, limitations or outcome of the previous assessment.

9. (1) In accordance with the requirements arising from Regulation (EU) No. 347/2013 on guidelines for trans-European energy infrastructure, the Authority shall ensure that for Projects of Common Interest as defined in Annex IV of that Regulation, the environmental assessment procedures arising from the requirements of these regulations, the Conservation of Wild Birds Regulations, the Flora, Fauna and Natural Habitats Protection Regulations and any other relevant sectoral regulations, as appropriate, are to be carried out in such a manner as to enable compliance with regulation 19 of the Development Planning (Procedure for Applications and their Determination) Regulations.

(2) Where the Minister is aware that a Project of Common Interest in Malta is likely to have significant effects on the environment in another State, or where a State is likely to be significantly affected, the provisions of sub-regulation (1) shall also apply in addition to the provisions of Part VII. The assessment shall also take into consideration, as relevant, the Espoo Convention and the Aarhus Convention.

Procedures to be followed when Projects of Common Interest are likely to have transboundary impacts.

PART IV CRITERIA FOR SCREENING AND ASSESSMENT

10. (1) Without prejudice to regulation 31, any proposal for development listed under Category I of Schedule I shall require an environmental impact assessment.

Category I of Schedule I: Mandatory environmental impact assessment.

(2) Subject to sub-regulation (1), and without prejudice to regulation 31, any proposal for development listed under Category II of Schedule I, shall require screening by the Authority.

Category II of Schedule I: Mandatory screening.

(3) The Authority may require an environmental impact assessment or screening for a project which is not included in Schedule I if it is of the opinion that the project may have significant environmental impacts and that a normal development consent application or an assessment other than provided by these regulations is not sufficient for their proper evaluation. In arriving at such requirement, the Authority shall have regard to the criteria set out in Schedule III.

Other projects requiring an environmental impact assessment or screening on a case-by-case basis.

(4) The provisions of sub-regulation (3) shall, *mutatis mutandis*, also apply for projects which are not included in Schedule I and which normally do not require an environmental impact assessment but which, in the Authority's opinion, can produce significant environmental effects due to cumulation with other existing and/or approved projects.

(5) During screening and assessment, the following provisions shall apply:

Environmental impact assessment or screening requirements for fait-accomplis.

(a) a requirement for an environmental impact assessment or screening shall still apply notwithstanding that a development or any relevant intervention has already been fully or partly carried out without the required permission, or if the site or its surrounding environment has been materially altered, damaged or degraded. Such development, intervention, alteration, damage or degradation as may be existent on site, as well as any consequent environmental impacts, shall not constitute a valid baseline and they shall be considered as a part of the project for the purpose of assessment or screening, such that no undue advantage is derived therefrom; and

(b) where any aspect of the environmental impact assessment or screening, or the overall environmental merits of the case or any relevant mitigation measures, have been significantly prejudiced or rendered ineffective, due to such illegal development, intervention, alteration, damage or degradation, the Authority may also recommend to the permitting authority to ensure that the decisions taken on the project are no more favourable to the person responsible for, or otherwise benefiting from, the illegality or distortion than if the environmental impact assessment were duly carried out in the absence of any such illegality or distortion.

Project
fragmentation.

(6) A project which requires, or may require, an environmental impact assessment or screening shall not be fragmented into smaller projects if this would:

(a) result in the omission or circumvention of the required comprehensive assessment of the overall project, or of any other requirement arising from these regulations; or

(b) adversely affect the integrity, effectiveness, transparency, consistency, feasibility or timeliness of the assessment or screening, or of any decision, consultation or commitment on the project; or

(c) in any way present a misleading or understated indication of the actual nature, scale, extent, likely evolution or implications of the project; or

(d) result in any premature or insufficiently informed decision or commitment:

Provided that the *bona fide* phasing of a project, or the subdivision of the project into mutually coordinated applications for the purpose of improved processing, shall not be deemed to fall within the scope of this sub-regulation if the Authority is satisfied that the relative submissions provide a reasonably comprehensive, fair and transparent indication of the full project and its actual implications, such that both the assessment and all relevant decision-making and consultations can be undertaken in their proper context and the concerns identified in paragraphs (a) to (d) are not relevant.

(7) The provisions of sub-regulation (6) shall, *mutatis mutandis* also be applicable to a group of projects which are inter-dependent, mutually connected or physically overlapping, or which follow on from one another.

PART V SCREENING AND ASSESSMENT PROCEDURES

Vetting.

11. The Authority shall, at the earliest appropriate moment, undertake vetting to determine whether a project submitted for its

consideration falls under these regulations, This regulation shall apply irrespective of whether there currently is an application for development consent, as long as the Authority is satisfied that there is sufficient information for proper vetting, and without prejudice to any additional considerations, issues and objections that the Authority may have on the project. The outcome of such vetting may be communicated in writing to the developer or to the permitting authority, or both, as relevant. The provisions of sub-regulation (4) of regulation 15 shall also apply, *mutatis mutandis*, to vetting.

12. (1) Should the vetting undertaken by the Authority indicate that the project qualifies for an environmental impact assessment or for screening, a project description statement compliant with the provisions of Schedule II shall be required, if the project is to be considered any further.

Project description statement.
Amended by:
L.N. 455 of 2020.

(2) The project description statement shall be submitted by the developer, or his appointed consultant, upon request or agreement by the Authority, and shall:

(a) provide information on the characteristics of the project and its site, and on the likely impacts on the environment, as detailed further in Schedule II;

(b) take into account, where relevant, the available results of other environmental assessments as indicated in sub-regulation (1) of regulation 8; and

(c) identify any characteristics or measures envisaged to avoid or prevent any significant adverse impacts on the environment.

(3) The project description statement may also include other relevant information as may be reasonably necessary or appropriate for proper screening, whilst avoiding content that does not add value to, or which may distort, the screening or any eventual assessment. The Authority may also require any such information or content to be submitted, removed, corrected or amended, and may also direct that such changes be a part of the project description statement or a separate document.

(4) The developer shall be responsible for ensuring that the information in the project description statement presents a complete and faithful representation of the project, the site, and the expected changes to any site affected by the project and its ancillary requirements. The project description statement shall duly reflect the final version of the project and shall be consistent with the relevant applications for development consent and vice versa.

(5) If a project description statement required by the Authority is not submitted as provided in sub-regulations (2) to (4) or is not to the Authority's satisfaction, the Authority may inform or remind

the developer accordingly, or may apply the provisions of regulation 31, as it deems reasonable and appropriate.

(6) The Authority shall make the project description statement available to the public through its website, and shall clearly indicate:

- (a) the authority responsible for the environmental impact assessment process;
- (b) the nature of the decisions to be taken; and
- (c) the authorities responsible for the development consent decisions.

Appraisal of alternative options.

13. Wherever relevant, projects that fall within the scope of these regulations shall require a sufficiently detailed and reasonably exhaustive initial appraisal of potentially suitable alternatives, on the basis of their technical merits, feasibility, and environmental implications and impacts, in the interest of streamlining and optimizing the subsequent assessment process.

Detailed screening.

14. (1) The Authority shall undertake a screening on the basis of the information provided in the project description statement and any other information or investigations as deemed appropriate by the Authority. The screening shall determine whether a project falling within the scope of regulation 10 (but not covered by Category I of Schedule I) is likely to have significant environmental effects in terms of the relevant criteria listed in Schedule III, whether an environmental impact assessment is required, and whether any other provisions of these regulations should be applicable.

(2) In arriving at a screening outcome, the Authority may take into account any considerations and parameters that it deems appropriate and reasonable, as long as it is of the opinion that, if the project is to be considered further:

- (a) they are realistic, feasible, reliable, sufficient, enforceable and within the developer's actual control; and
- (b) all the required provisions to secure their effective implementation can be duly addressed in any subsequent grant of development consent.

(3) If the screening concludes that no environmental impact assessment is required, the considerations and parameters influencing such screening may form an integral part of the Authority's recommendations on the project, without prejudice to the applicability of regulations 31 and 32.

Screening outcome.

15. (1) The Authority shall inform the developer of the screening outcome in writing not later than 30 calendar days after it receives the project description statement duly prepared in conformity

with regulation 12. In cases relating to, inter alia, the nature, complexity, location or size of the project, the Authority may extend that deadline provided that it shall inform the developer in writing, giving reasons for the extension and indicating a reasonable date when the screening outcome is expected.

(2) Once the Authority notifies the developer that the project requires an environmental impact assessment according to these regulations, the developer shall, within 30 calendar days of notification and unless he decides to contest this outcome before the Tribunal in accordance with Part X, inform the Authority in writing that he will undertake the environmental impact assessment within a reasonable time period. Such time period shall be clearly specified by the developer and shall be subject to agreement by the Authority. If the developer does not comply with this sub-regulation, the provisions of sub-regulation (1) of regulation 6 shall apply, without prejudice to regulation 31.

(3) The screening determination for projects not covered by Category I of Schedule I, including any supporting justification and any ancillary conditions, assumptions and parameters, shall be made available to the public on the Authority's website, also stating, with reference to the relevant criteria listed in Schedule III:

(a) where an environmental impact assessment is required, the main reasons for such requirement; and

(b) where an environmental impact assessment is not required, the main reasons for not requiring such assessment, and the main features or measures proposed by the developer to avoid or prevent significant adverse effects on the environment, as well as any other important conditions considered relevant by the Authority.

(4) Any materially significant changes effected to the project after a screening determination has been already issued shall *ipso facto* invalidate such screening determination if the information, considerations and assumptions on which the screening was based cease to be valid or are no longer met to the Authority's satisfaction. Any commitment, requirement or exemption arising, or deemed to have arisen, from the invalidated screening outcome shall also lapse *ipso facto*. The permitting authority shall ensure that, in the event of any such changes or if there is reasonable uncertainty as to the whether any changes fall within the scope of this sub-regulation, or if the Authority so requests, the project is duly referred again to the Authority to confirm whether the previously issued screening outcome is still valid or otherwise. Should the Authority determine that the previous screening outcome is superseded, the updated screening outcome together with any new or amended terms as issued by the Authority shall apply instead.

(5) The provisions of sub-regulations (1), (2) and (3) shall, *mutatis mutandis*, also apply, in respect of any updated screening outcome pursuant to sub-regulation (4).

Scoping: terms of reference.
Amended by:
L.N. 455 of 2020.

16. (1) After the developer has complied with sub-regulation (2) of regulation 15, the Authority shall initiate scoping. The terms of reference for the environmental impact assessment shall be based on the information established in Schedule IV, and shall specify the information that may be required for reaching an informed conclusion on the significant effects of the project on the environment, taking into account the screening outcome. The environmental impact assessment shall, with a view to avoiding duplication of assessments as well as to optimize the quality of the assessment, take into account the information contained in, and results of, other relevant environmental assessments and studies undertaken in terms of these regulations or under any other legislation, insofar as such information is relevant, reasonably available and still appropriate.

(2) The Authority shall invite:

(i) Government entities as the Authority deems relevant;

(ii) the local councils responsible for the localities where the project, including its ancillary infrastructure, is proposed to be sited;

(iii) other local councils that in the opinion of the Authority are likely to be affected by the project or its ancillary infrastructure; and

(iv) the public, and the public concerned;

to make recommendations and ancillary reasoned justifications on any relevant matters that merit inclusion in the terms of reference, within 30 calendar days of such notification. The Authority shall also inform the developer in writing of the names and addresses of the Government entities and local councils so notified. The Authority shall have the right to factor any recommendations in its terms of reference as well as to partly adopt or decline them as it deems most appropriate. The Authority may also request further clarification or information from the afore-mentioned parties.

Scoping meetings.

(3) Prior to the setting of the terms of reference, the Authority may convene:

(i) one or more scoping meetings, when it is considered by either party that the proposed project is of major significance because of its nature, scale, location, hazardous properties or other reasons; and or

(ii) one or more meetings between the Authority and the developer,

and the reasonable cost of such meetings, if any, shall be borne by the developer.

(4) Following these consultations, the Authority shall formulate draft terms of reference for the EIA report. The Authority shall give the developer and the coordinator, if already appointed in accordance with these regulations, the opportunity to propose amendments thereto for the Authority's consideration. Thereafter, the Authority shall issue the final terms of reference for the assessment, without prejudice to the provisions of these regulations and to any further requirements or modifications at a later stage in the light of the evolution and findings of the assessment itself.

(5) The Authority shall communicate a copy of the final terms of reference to the developer. The final terms of reference for the environmental impact assessment shall also be available to the public through the Authority's website without delay.

(6) Notwithstanding the provisions of sub-regulations (2) to (5), the Authority may adapt or modify the terms of reference, with due justification, at any time according to the environmental considerations relevant to the project, and the provisions of these regulations shall apply. The information provided to the public in line with sub-regulation (5) shall be updated accordingly without delay and not later than fifteen (15) days from the adoption or modification of the terms of reference.

17. (1) The developer shall be responsible for commissioning an EIA report in accordance with these regulations. Commissioning of EIA reports.

(2) The consultants carrying out the EIA report shall be professionals, independent and impartial, and shall be duly competent experts in the respective areas of the assessment. The consultants shall be registered in accordance with the provisions of the Act once such registration mechanism enters into force, and must also follow the regulations, procedures, rules and guidelines established by the Authority and by the Registration Board. The consultants shall be led and managed by a coordinator, who shall be responsible for the overall content and presentation of the EIA report. Assessment consultants.

(3) The consultants shall be required to sign a declaration that they have no conflict of interests that may affect any aspect covered by these regulations. Such declaration shall follow the terms and specifications established by the Authority.

18. (1) The EIA report shall cover all the requirements specified in the terms of reference issued by the Authority, and shall include at least: EIA report.

(a) a description of the project, including information on the design, size and other relevant features;

(b) a description of the project site and its surroundings, including their environmental characteristics;

(c) a description of the likely significant effects of the project on the environment;

(d) a description of the features of the project and/or measures envisaged in order to avoid, prevent or reduce and, if possible, offset any likely significant adverse effects on the environment;

(e) a description of the reasonable alternatives studied, which are relevant to the project and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the project on the environment; and

(f) any additional information specified in Schedule IV as relevant to the project and to the environmental features likely to be affected.

(2) The EIA report shall:

(a) be in either the Maltese or English language or both, as most appropriate in relation to the nature of the project, the site context, the public concerned and any international or transboundary relevance;

(b) contain a non-technical summary of the information referred to in sub-regulation (1), which shall be a separate document presented in both the Maltese and English languages; and

(c) list the names of the consultants and contributors responsible for the preparation of the EIA report, technical studies, appendices, non-technical summary and other components of the report, clearly identifying their respective contributions and responsibilities.

(3) The technical studies shall be attached to the EIA report in the form of appendices or annexes.

Quality control.

(4) The consultants shall ensure the professional and scientific integrity, veracity, coherence, concreteness, transparency, completeness and effectiveness of the content, discussions, analyses and recommendations in the EIA report. To this effect, it shall be the consultants' responsibility to ensure that, inter alia:

(a) the analysis is presented in a clear, impartial,

intelligible and user-friendly manner, in summary, tabular, graphical, map, diagrammatic or pictorial formats and in a descriptive manner, as appropriate;

(b) the techniques and methods used in the analysis and predictions are clearly described;

(c) adequate methodology is used, including appropriate timing, duration and frequency of any investigations, surveys and sampling as well as any required provision for any relevant seasonal variation to ensure a sufficiently representative and complete picture of any likely impacts;

(d) all assumptions and conditionalities, and their underlying reasoning, as well as any difficulties encountered and any relevant information that is incomplete, lacking, unclear or unavailable, are clearly and specifically indicated, are reasonable and realistic, and are limited to a minimum through appropriate investigation;

(e) all references to published works and sources of information are duly acknowledged, in such a manner as to enable access to, as well as verification, analysis and or contestation of, the source as relevant;

(f) the various reports constituting the EIA report are written in coordination with one another and presented in a coherent manner;

(g) the EIA report is not limited to a factual description of the situation and its projected evolution, and clearly identifies the likely environmental consequences; and

(h) recommendations are tangible, specific and realistically implementable, are not dependent on factors beyond the developer's control, and are truly effective in addressing the identified impacts, risks and uncertainties.

(5) If any information cannot be realistically obtained or can only be obtained limitedly, the consultants shall include within the EIA report:

(a) a justification as to why such information is incomplete or unavailable, as well as an explanation of the relevance of such information; and

(b) a summary of existing credible evidence, or any alternative investigation based upon theoretical approaches, extrapolation or interpolation, or research methods generally accepted in the scientific community, which would provide a reasonable alternative basis for assessment.

(6) The provisions of sub-regulations (4) and (5) shall not preclude the Authority from verifying the justification for any claimed limitation, nor from requiring rectification of unjustified limitations.

Commissioning of assessment by the Authority.

(7) In the event that the Authority has any reasonable and significant doubt about the quality, sufficiency or impartiality of the EIA report or any part thereof, or any other significant concern that cannot be addressed effectively and in accordance with the provisions of regulation 21, the Authority may commission an independent assessment at the expense of the developer and may establish such time-frames as it deems fit for this purpose. The Authority shall inform the developer of its intention before such commissioning and shall, in writing, ask the developer whether he wishes to proceed with the assessment or not. The provisions of regulation 6 shall apply, *mutatis mutandis*.

Expertise available to the Authority.

(8) The Authority shall ensure that it has, or has access to, sufficient expertise to analyse, verify and examine the EIA report and any other documentation relevant to these regulations.

Availability of information from Government entities and local councils.

(9) Government entities and local councils shall make available to the consultants, upon the developer's or the consultants' request, any information which they have in their possession and which may be relevant to the environmental impact assessment, provided that they shall not be required to disclose any information which, in terms of any law or code of practice, is considered to be confidential or secret. A reasonable charge covering the costs of providing the information may be made by the body supplying the information in accordance with this sub-regulation, and the costs shall be borne by the developer. The provisions of this sub-regulation shall, *mutatis mutandis*, also apply to any assessment pursuant to sub-regulation (7).

(10) Notwithstanding the content of the terms of reference, the Authority may, at any stage of the environmental impact assessment, seek from the developer, from the coordinator, from another Government entity or from any other person or combination thereof any supplementary information or communication which is relevant to reaching the reasoned conclusion on the project and its significant effects on the environment.

Submission of EIA report.
Amended by:
L.N. 455 of 2020.

19. (1) On official submission of the EIA report to the Authority, notices indicating such submission shall be published by the developer in at least one daily or weekly newspaper in Maltese and one in English, and by the Authority on the Authority's website. The notices shall be in accordance with any guidelines issued by the Authority and shall also follow any other requirement established by the Authority, and shall stipulate a period of not less than thirty (30) calendar days during which the EIA report shall be available for inspection and written comments, which are to be submitted to the Authority.

(2) The EIA report shall be made available to authorities and entities likely to be concerned by the project by reason of their specific

environmental responsibilities and specifically to:

- (a) the relevant Government entities;
- (b) the local council which is responsible for the locality where the project is proposed;
- (c) other local councils that in the Authority's opinion are likely to be affected by the project or by its ancillary requirements; and
- (d) the public, and the public concerned;

on the Authority's website, and at the Authority's offices and, where appropriate, through any other additional means as the Authority may establish, and may be inspected throughout the period stipulated in accordance with sub-regulation (1) on such days and during such times as the Authority deems proper.

(3) All expenses incurred in fulfilment of this regulation shall be paid by the developer.

20. (1) Following expiry of the time period established in sub-regulation 19(1), the Authority shall arrange for a public hearing to take place at a suitable venue, within the same locality in which the project is proposed but not within the developer's property. At this hearing, the public may comment on, and enquire about, the EIA report as well as the proposed project and its impacts, and may request any relevant information and clarifications:

Public hearing.
Amended by:
L.N. 448 of 2020.

Provided that in the case of a pandemic, epidemic, natural disaster, armed conflict, declaration of a national emergency or public danger, or any other event of *force majeure*, such public hearing may alternatively be held by means of electronic or other viable means of communication as the Authority deems appropriate, and any such hearing held by using such means shall have the same effect at law as a hearing held physically;

(2) The Authority shall give at least fifteen calendar days' notice of the public hearing, indicating the date, time and venue of the hearing, by means of an advertisement published in at least one daily or weekly newspaper in Maltese and one in English. The notice shall also be given on the Authority's website.

(3) The Authority or a person acting on its behalf shall chair the public hearing and shall coordinate the proceedings thereof, and shall give every person present at the hearing reasonable opportunity to participate in accordance with sub-regulation (1).

(4) All expenses in relation to the fulfilment of this regulation shall be borne by the developer.

(5) The coordinator shall ensure, as much as reasonably possible, that the relevant consultants are available for the hearing, or that appropriate alternative arrangements are made for provision of adequate information and replies to the public present at the hearing.

(6) Wherever a public hearing is required in accordance with this regulation:

(a) the Authority shall duly record the comments, enquiries and requests made during the public hearing; and

(b) the public may make any additional written submissions to the Authority up to seven calendar days after the public hearing.

(7) Subject to regulation 10, the provisions of sub-regulations (1) to (6) shall not apply to environmental impact assessments carried out for projects other than those listed in Category I of Schedule I, unless the Authority considers that a public hearing should still be held.

Recording and follow-up of comments.

21. (1) The submissions, comments, enquiries and requests submitted or recorded in accordance with regulations 19 and 20 shall be collated into a report by the Authority and sent to the coordinator for his response. The coordinator's response shall be submitted to the Authority, and the Authority may raise additional considerations itself, and or refer it to other public entities or to the public concerned for information, comments or further guidance as it deems relevant. The report including all relevant responses shall be presented in an appendix to the EIA report.

(2) The EIA report may be further revised in the light of any material considerations arising from sub-regulation (1), and the resulting version shall be considered as the concluded EIA report. Wherever the Authority considers appropriate for the purpose of simplification and transparency, it may accept or require the submission of such revisions as an addendum to the EIA report, instead of resubmission of the entire EIA report.

Copies of the EIA report.
Amended by:
L.N. 455 of 2020.

22. (1) The coordinator shall submit to the Authority such number of digital and printed copies of the concluded EIA report as the Authority may reasonably establish.

(2) The Authority shall keep at least a digital copy and one printed copy of the concluded EIA report, and of any official documents connected therewith.

(3) Without prejudice to any additional provision of these regulations, the concluded EIA report, including any addendum in accordance with regulation 21(2), shall be made available on the Authority's website without delay and not later than fifteen (15) days from its finalisation. This provision shall apply without prejudice to the Freedom of Access to Information on the Environment

S.L.549.39.

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Regulations, and, where not specifically regulated by such regulations, the Freedom of Information Act.

(4) The Authority may reproduce or quote the contents of the concluded EIA report, and of any other earlier version submitted to it.

23. (1) The Authority shall analyse the concluded EIA report and shall prepare its own final assessment. The Authority shall take a decision in public giving the opportunity to the applicant and the public to make comments and representations. The Authority's position shall be made publicly available on the Authority's website without delay and not later than fifteen (15) days from its finalisation. Without prejudice to regulation 32A, due consideration of, and clear reference to, the Authority's position shall be included in all relevant permit application reports compiled by the permitting authority in accordance with the provisions of the relevant legislation.

Final assessment
by the Authority.
Amended by:
L.N. 455 of 2020.

(2) In preparing and arriving at its final assessment, the Authority shall give due regard to the conclusions reached in the EIA report prepared by the consultants, including any relevant ancillary documentation, as well as to the comments received from the public concerned at any stage of the process pursuant to these regulations, and any other environmental considerations that may be relevant. As part of its final assessment, the Authority shall give adequately detailed reasons as to whether it agrees with or does not agree with the conclusions reached by the consultants in the report, in whole or in part.

(3) Wherever the available information is deemed by the Authority to be insufficient for acceptable decision-taking on the project or wherever the Authority deems that the risk factor or hazard factor or both are too high, the Authority shall adopt the precautionary principle. This sub-regulation shall apply notwithstanding the provisions of regulation 18.

(4) The Authority's report shall also include all relevant consultation submissions and replies, and minutes of the consultation meetings, as appendices or annexes. Such documents, together with any addenda, shall be made publicly available in accordance with sub-regulation (1).

PART VI

SUSPENSION, REACTIVATION, UPDATING AND DISCONTINUATION OF ENVIRONMENTAL IMPACT ASSESSMENTS

24. (1) Without prejudice to regulation 31, the Authority may suspend an environmental impact assessment process, including any screening, at any stage if:

Suspension of
environmental
impact assessment
or screening.

(a) in its opinion, the project proposal or the

situation on site, or both, have been modified or updated in a substantial manner such that the details currently being assessed or screened are superseded, superfluous, outdated, insufficient or no longer representative of the actual situation; or

(b) any significant flaw, malpractice or distortion is discovered vis-à-vis the already-initiated assessment or screening, or the situation on site, or both.

Reactivation and other post-suspension actions.

(2) At any stage following suspension under sub-regulation (1), the Authority may, as it deems most appropriate taking into account the factors that have led to the suspension:

(a) reactivate the processing; or

(b) reactivate the processing subject to the required updates or corrections; or

(c) direct that the process be resumed at an earlier stage; or

(d) order further screening or scoping in terms of these regulations, or both; or

(e) apply the provisions of regulations 6, 31 or 33, or a combination thereof; or

(f) adopt a combination of the above listed measures.

Updating of environmental impact assessments, and fresh assessments.

(3) Wherever the Authority is of the opinion that the environment context of the project or situation on site has materially changed after the completion of an environmental impact assessment, it may:

(a) require that the existing assessment or any documentation related thereto be updated accordingly to its satisfaction, or that any additional documentation be submitted to its satisfaction. The Authority shall decide, at its discretion, whether the project merits fresh screening or fresh scoping or both; or

(b) require a fresh assessment in line with these regulations to replace the superseded assessment. The new assessment shall follow the normal procedures prescribed in these regulations for the project under consideration, and accordingly such screening and scoping shall both be required.

Discontinuation of environmental impact assessment.

(4) An environmental impact assessment shall be considered as automatically discontinued in the event that:

(a) the relevant application for development

consent has been lawfully refused or dismissed; or

(b) the environmental impact assessment is pursuant to a permit, licence, concession or commitment which has since expired, or has been revoked or invalidated or has been quashed by a Court established by law; or

(c) any submission requested by the Authority which is materially relevant to the assessment, has remained pending notwithstanding the lapse of at least two calendar years.

In such instance, no further action by the Authority shall be required, and the provisions of sub-regulation (1) of regulation 6 and Part IX shall apply *ipso facto*.

(5) If, in the Authority's opinion, an environmental impact assessment is taking an unreasonably long time in excess of five (5) years to be duly concluded or there are any unjustified delays the Authority may summarily interrupt that assessment and shall inform the developer accordingly in writing, without prejudice to the other provisions of these regulations.

(6) The provisions of this regulation shall, *mutatis mutandis*, also be applicable to the project description statement and to any other documentation submitted, or requested, in terms of these regulations.

PART VII TRANSBOUNDARY IMPACTS

25. (1) Where the Minister is aware that a project in Malta may have significant effects on the environment in another State, or where another State that may be affected so requests in line with the provisions of the Directive or of the Convention, the Minister shall notify that State, as soon as possible and not later than when the public in Malta is informed in accordance with these regulations, and shall include the following information:

Transboundary impacts of projects in Malta.

(a) information on the project and its location, together with the available information on the possible transboundary impacts;

(b) information on the nature of the possible decisions; and

(c) any other information which the Minister deems reasonable,

the Minister shall also give that State, hereinafter referred to as "the interested State", thirty calendar days within which to indicate whether it wishes to participate in the environmental decision-making procedures, including the development

consent procedure, the environmental impact assessment and or scoping, as may be relevant.

(2) If another State considers that the environment under its jurisdiction is likely to be adversely affected by a project which is proposed to be carried out in Malta and which is within the scope of these regulations, but no notification has taken place in accordance with sub-regulation (1), the Minister shall, at the request of that State, exchange sufficient information for the purposes of holding discussions on whether there is likely to be a significant adverse transboundary impact.

(3) If, pursuant to sub-regulations (1) and (2), the interested State indicates to the Minister that it intends to participate in such procedures, the Minister shall, if he has not already done so, send to that State the required information as laid down in these regulations and, once it is submitted to the Authority, the EIA report.

(4) The interested State may enter into consultations with the Minister concerning, inter alia:

- (a) the potential transboundary effects of the project;
- (b) possible alternatives to the project, including the no-action alternative where relevant;
- (c) measures to prevent, reduce, eliminate or offset any significant transboundary impacts;
- (d) monitoring of the effects of such measures, and of the project;
- (e) possible mutual assistance in preventing, reducing, eliminating or offsetting any significant adverse impact of the project; and or
- (f) any other appropriate matters as relevant to the project.

To this effect, the interested State shall agree with the Minister on a reasonable time-frame for the consultation period, taking into account the nature, scale and characteristics of the proposed project and its location. The interested State shall also promptly provide the Minister with information relating to the environment under its jurisdiction which may potentially be adversely affected, where such information is necessary or relevant for the assessment.

(5) The interested State may arrange for the information to be made available, within a reasonable time, to the relevant authorities and the public in its territory such that they can forward their opinion within a reasonable time and participate effectively in the relevant

environmental decision-making procedures before any consent for the project is granted. Within the time-frame established through the provisions of sub-regulation (4), the interested State shall forward its opinion to the Minister, who shall in turn forward such opinion to the Authority.

(6) The Minister shall provide to the interested State information about:

- (a) the final decision on the proposed project;
- (b) the reasons and considerations on which the decision was based;
- (c) the terms and conditions attached to the decision, including the relevant measures to avoid, reduce, or offset the major adverse effects;
- (d) the public participation process; and
- (e) any other ancillary information which the interested State may reasonably request in line with the Directive or the Convention, or which the Minister deems appropriate.

The interested State may make such information available in an appropriate manner to the public concerned in its own territory.

(7) If additional information on the significant transboundary impact of a project proposed in Malta, which was not available at the time a decision was made and which could have materially affected the decision, becomes available to the Minister or to an interested State before work on the project commences, the Minister shall immediately inform the interested State and vice-versa, as relevant. In such instances, any one or both parties may request that consultations be held on whether the decision needs to be revised.

(8) Where the monitoring of a project or any other post-project analysis reveals any significant adverse transboundary impacts or any factors that may result in such impacts, the Minister shall immediately inform the interested State or vice-versa, as relevant. Both parties shall then enter into consultations on the measures that should be undertaken to prevent, reduce, eliminate or offset such impact, including any mutual assistance to this effect.

(9) The transmission of information to the interested State, and the receipt of information by such State, shall be subject to the limitations contained in any law in force in Malta.

26. (1) The Minister shall have the right to be notified by another State about any project in that State which may have a potentially significant effect on the environment in Malta, as soon as

Transboundary impacts of projects in other States.

possible and no later than when the public in that same State is informed. The Minister shall respond to any such notification, acknowledging receipt and indicating whether Malta intends to participate in the relevant procedures in line with this regulation.

(2) Where, following such notification, the Minister is of the opinion that a project proposed in another State may have a potentially significant effect on the environment in Malta, or where the Minister deems appropriate in line with the provisions of the Directive or of the Convention, he shall as soon as possible and within the time-frame specified in the notification, inform the State in which the project is to be undertaken, of Malta's request to participate in the environmental decision-making procedures in that State, including the development consent procedure, the environmental impact assessment and or scoping, as may be relevant, and he shall request the information listed in sub-regulation (1) of regulation 25.

(3) If the Minister considers that the environment under Malta's jurisdiction is likely to be adversely affected by a project which is proposed to be carried out in another State, but no notification has taken place in accordance with sub-regulations (1) and (2), the Minister shall as soon as possible request that State to exchange sufficient information for the purposes of determining whether there is likely to be a significant adverse transboundary impact such that the matter should be followed up further in line with this regulation.

(4) The Minister shall forward to the Authority the information indicated in sub-regulations (2) and (3), as relevant. The Authority shall make this information available to the consultees and the public in Malta such that they can forward their opinion and participate effectively in the environmental decision-making procedures before any consent for the project is granted, and may apply any provisions of these regulations as it deems relevant and appropriate to this effect. The Minister shall also seek an agreement with the State in which the project is to be undertaken on a reasonable time-frame for consultation, taking into account the nature, scale and characteristics of the proposed project and its location. The Minister shall also promptly provide that State with reasonably obtainable information relating to the potentially affected environment under Malta's jurisdiction, where such information is necessary or relevant for the assessment.

(5) The Minister, acting on the advice of the Authority and taking into consideration the comments of the public, shall enter into consultations with the State in which the project is to be undertaken concerning, inter alia, the considerations listed in sub-regulation (4) of regulation 25.

(6) The State in which the project is to be undertaken shall provide to the Minister information about the aspects listed in paragraphs (a) to (d) of sub-regulation (6) of regulation 25, and any other ancillary information which the Minister may reasonably request

in line with the Directive or the Convention. When the Minister receives such information, he shall provide a copy thereof to the Authority which shall then publish it through at least one daily or weekly newspaper in Maltese and one in English, and on the Authority's website.

(7) If additional information on the significant transboundary impact of a project proposed in another State, which was not available at the time a decision was made and which could have materially affected the decision, becomes available to the Minister or to that State before work on that project commences, the Minister shall immediately inform the other State and vice-versa, as relevant. In such instances, any one or both parties may request that consultations be held on whether the decision needs to be revised.

(8) Where the monitoring of a project or any other post-project analysis reveals any significant adverse transboundary impacts or any factors that may result in such impacts, the Minister shall immediately inform the State in which the project is to be undertaken or shall ensure that such State immediately informs him, as relevant. Both parties shall then enter into consultations on the measures that should be undertaken to prevent, reduce, eliminate or offset such impact, including any possible mutual assistance to this effect.

(9) The transmission of information by the State in which the project is to be undertaken, and the receipt of such information by the Minister, shall be subject to the limitations in force in the State in which the project is to be undertaken.

27. For the purposes of both regulations 25 and 26:

(a) Discussions, consultations and provision of information may also be conducted through an appropriate joint body, where one exists.

(b) In the exercise of his rights, duties and functions, the Minister shall act on the advice of the Authority. The Authority, as well as all other relevant Government entities, shall furnish the Minister with all such documentation, information and advice as he requests.

Common provisions applicable to regulations 25 and 26.

28. (1) The Minister, acting on the advice of the Authority, may enter into discussions with another State to determine whether a project, or combination of projects, not listed in Schedule I or in the legislation of that State is likely to cause a significant adverse transboundary impact such that the provisions of regulation 25 or regulation 26, as relevant, should apply.

Discussions with other States.

(2) The Minister shall ensure that any disagreements or disputes with another State on matters relating to these regulations, including differences of opinion on whether a significant transboundary impact is likely or on the procedures or time-frames to

Settlement of disputes with other States.

be followed, are settled in line with the provisions of the Directive and the Convention, as relevant.

Bilateral and multilateral agreements.

(3) The Minister may also enter into any other bilateral or multilateral agreements with other States on matters related to environmental impact assessment, as he deems appropriate in line with the provisions of the Directive and the Convention, as relevant.

PART VIII DECISION-TAKING AND MONITORING

Development consent decisions.

29. The Authority shall be satisfied that the conclusions reached by the consultants, as well as its own final assessment in terms of regulation 23 and any other environmentally relevant conclusions, decisions and recommendations, are still up to date when the relevant permitting decisions, and other commitments in relation to the project, are made or taken by the permitting authority and the environmental impact assessment is or may be relevant to those decisions or commitments. The Authority's final assessment shall remain effective as long as the proposal and the relevant documentation, including plans and drawings, on the basis of which the assessment was made, have not been changed or altered in any manner deemed by the Authority as significant. In deciding the validity of such assessment, the Authority may also consider any time lapse between the date of its final assessment and the decision taking.

Public participation, notification & availability of information. Cap. 552. Substituted by: L.N. 455 of 2020.

30. The procedures for notification, public participation and availability of information to the public, in relation to development consent decisions shall follow the provisions of the Development Planning Act and its subsidiary regulations and, where applicable, the provisions of any other respective permitting legislation:

Provided that where a development falls within the scope of these regulations, the permitting authority shall clearly make available to the public, at the earliest possible stage and within reasonable time frames, details of:

- (a) the authorities responsible for taking the decision;
- (b) those from which relevant information may be obtained;
- (c) those to which comments or questions can be submitted;
- (d) the time schedule for transmitting comments or questions;
- (e) the nature of possible decisions; and, where there is one, the draft decision.

31. (1) The Authority may at any stage recommend to the permitting authority that permission for a proposed project falling within the scope of these regulations be refused, dismissed, or otherwise restricted, if it is of the opinion that:

Supplementary provisions on development consent.

(a) the information provided in the application or proposal, or in any documentation required in terms of these regulations, or in any other relevant documentation is false, fraudulent or misleading, or is grossly incorrect such that it would prejudice the effectiveness of the required assessment or raise any issue identified in sub-regulation 10(6); or

(b) there is persistent, prolonged, or unjustified failure to submit any required information or documentation, or to fulfil any of the requirements arising from these regulations, in line with the time frames and requirements established by the Authority; or

(c) the project would have unacceptable environmental effects, such that more detailed consideration would be ineffective, superfluous, counter-productive, or in conflict with other environmental obligations; or

(d) the project is ancillary or related to any illegal intervention, or itself is an illegal intervention, that has significantly prejudiced the environmental quality of its location or surroundings, or has significantly distorted the baseline situation to the extent of prejudicing proper and effective assessment.

(2) The Authority may also recommend that any other permission for any project be refused, dismissed, or otherwise restricted if such project would contravene, circumvent, prejudice or render ineffective any condition, limitation or safeguard imposed in a permit issued pursuant to an environmental impact assessment.

32. When development consent is granted for a project which had been subjected to an environmental impact assessment or screening under these regulations, the following provisions shall apply:

Incorporation of environmental measures and safeguards in permits.
Amended by:
L.N. 455 of 2020.

(a) The Authority may recommend to the permitting authority to include any conditions and measures in the development consent. It may also recommend amendments to the project or specifications on any features of the project to ensure that the assessment or screening outcome is duly fulfilled, or to avoid, prevent or reduce and, if possible, offset significant adverse effects on the environment. Such measures may also include inter alia:

Permit conditions and supplementary safeguards.

(i) the imposition of financial guarantees in

favour of the Authority;

(ii) insurance against damage to the environment;

(iii) contributions to the Environment Fund;

(iv) the submission of any data, information or documentation; and

(v) environmental permitting requirements, other authorizations, and enforcement considerations.

Monitoring, surveillance and other post-permit analysis.

(b) The Authority shall require monitoring of the relevant effects of the project on the environment, in accordance with specifications and procedures as it deems most appropriate and effective in order to avoid, prevent or reduce and, if possible, offset significant adverse effects on the environment.

(c) The following provisions shall apply with regard to monitoring undertaken in terms of paragraph (b):

(i) the monitoring shall be undertaken either by the Authority or by any other person acting on the Authority's instruction, or in liaison with other authorities, and shall address the effects of the project on the environment;

(ii) the type of parameters to be addressed and the duration of the monitoring shall be relevant and proportionate to the nature, location and size of the project, the site environment and the potential effects on the environment;

(iii) existing arrangements resulting from other relevant legislation may be used if appropriate, with a view to avoiding duplication; and

(iv) the Authority shall require any remedial measures, including adjustments to the project or of the works methodology, to address to its satisfaction any impacts, risks or adverse implications identified.

(d) The Authority may also require any other post-permit analysis as may be relevant including verification and auditing of predictions and assessments, and implementation of corrective measures.

(e) The application of any measures in line with paragraphs (a) to (d) shall not be construed as a

justification for the project, and shall be without prejudice to the Authority's assessment of the overall merits of the project and of its impacts and implications on the environment.

32A. (1) When providing recommendations following the completion of an environmental impact assessment, the Authority shall duly take into account the comments received from the public and the public concerned in line with these regulations.

Due consideration of public comments and of the Authority's position.
Added by:
L.N. 455 of 2020.

(2) The Authority's position in line with regulation 23, as well as any recommendations made by the Authority in line with regulations 31 and 32, shall be duly taken into account by the permitting authority into its decision-making process.

PART IX ENFORCEMENT

33. (1) Any person who:

Offences and liability.

(a) provides false, fraudulent or misleading information that may jeopardize, or render ineffective any assessment falling within the scope of these regulations or lead to processing errors; or

(b) causes any significant impact, risk or hazard to the environment, as a result of non-compliance, or unsatisfactory, incomplete or late compliance, with any provision of these regulations; or

(c) contravenes any order or instruction given by the Authority under these regulations, in respect of any aspect that may have an adverse impact on the environment,

shall be guilty of an offence under these regulations, and shall be liable to:

(i) on a first conviction, a fine (*multa*) of not less than two thousand five hundred euro (€2,500.00) and not more than two hundred and thirty thousand euro (€230,000.00), or imprisonment for a term not exceeding two years, or both such fine (*multa*) and imprisonment; and

(ii) on a second or subsequent convictions, a fine (*multa*) of not less than five thousand euro (€5,000.00) and not more than four hundred and sixty thousand euro (€460,000.00) or imprisonment for a term not exceeding two years, or both such fine (*multa*) and imprisonment.

(2) The Court, besides awarding the punishment referred to in

sub-regulation (1), may order the offender to remove the causes of the offence and to rectify the situation as instructed at the offender's cost within a stipulated time as determined by the Court. If the offender fails to comply with any such order within the time so established, he shall be liable to a fine (multa) of not less than fifty euro (€50) and not more than one hundred and thirty euro (€130), for every day the default continues after the expiration of the said time, and the Court may also order the modification, suspension or revocation of any authorization.

(3) Any person who contravenes or fails to comply with these regulations may be liable to an administrative fine (multa) not exceeding one hundred thousand euro (€100,000) for each violation. The administrative fine (multa) shall be paid into the Environment Fund established by article 32 of the Act.

PART X ACCESS TO JUSTICE

Appeals.
Cap.551.

34. Appeals before the Tribunal, to challenge a decision, act or omission related to any matter regulated under these regulations, shall be applicable to all aggrieved persons including interested third parties referred to under the Environment and Planning Review Tribunal Act, and shall be made in accordance with the relevant rules and procedures laid down under the same Act.

PART XI MISCELLANEOUS PROVISIONS

Clarifications.

35. (1) When the Authority advises the developer, his agent, or the consultants or gives any guidance which it may deem fit in the circumstances, this does not imply in any way that the Authority is approving the project or will recommend that the Authority or any other decision-taking authority that it should approve the proposed project.

(2) Agreement on the terms of reference for the preparation of any study or document including, but not limited to, baseline studies, project description statements, or EIA reports, as well as any other agreement regarding the initiation, continuation, suspension or conclusion of any process falling within the scope of these regulations, is not to be construed in any way as evidence in favour of the proposed project.

Conflict of
interests.

36. (1) All persons and institutions performing duties under these regulations, including the Authority, other permitting authorities, Government entities, local councils, consultants and monitors, shall ensure that their duties are carried out in a fair and impartial manner and that they do not find themselves in a situation giving rise to a conflict of interests.

(2) Where the Authority is also the developer, it shall implement within its organisation appropriate separation between the conflicting functions when performing the duties arising from these

regulations.

(3) Consultants who are in any way involved in the environmental impact assessment shall not be a member of any decision-taking body which could be involved in determining the application or any related appeal or decision.

37. (1) The Authority shall exchange with the Commission of the European Union information on the experience gained in applying the Directive through these regulations, and on ancillary matters. In particular, every six years from 16 May 2017, the Authority shall inform the Commission of the European Union, where such details are available, of:

Ancillary matters.
Amended by:
XXI of 2020.

(a) the number of projects that were the subject of an environmental impact assessment;

(b) the breakdown of environmental impact assessments according to the project categories set out in these regulations;

(c) the number of projects falling under Category II of Schedule I subjected to a screening determination in accordance with regulation 14;

(d) the average duration of the environmental impact assessment process; and

(e) general estimates on the average direct costs of environmental impact assessments, including the impact from the application of these regulations to Small and Medium Enterprises.

(2) The Authority shall have the right to request or collect any such information as may be reasonably required.

38. 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, intellectual property, and the safeguarding of the public interest.

Commercial and industrial confidentiality, intellectual property, and the public interest.

PART XII TRANSITORY PROVISIONS

39. Any application or proposal for any project listed in Schedule I, or otherwise falling within the scope of regulation 10, pending on the date of coming into force of these regulations shall be regulated according to the provisions of these regulations, provided that:

Currently pending assessments.

(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 rules and regulations concerning the registration of consultants in the Register, once such Register is in force;

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

(c) in environmental impact assessments whereby their terms of reference had already been communicated to the developer prior to the entry into force of these regulations shall, as far as possible, comply with the provisions of these regulations unless the Authority specifically exempts in writing the developer or the consultants, as relevant, from any such provisions with regard to a particular project after having taken into consideration the advanced stage arrived at in the environmental impact assessment.

Amended by:
L.N. 455 of 2020.

**SCHEDULE I
(Regulation 10)**

**Projects which require an Environmental
Impact Assessment^{*, †, ‡}**

1.0	GENERAL LAND USE		
1.0.1	Category I	1.0.2	Category II
		1.0.2.1	Development with a site area of 2ha or more.
2.0	TRANSPORT INFRASTRUCTURE		
2.1	Roads		
2.1.1	Category I	2.1.2	Category II
2.1.1.1 ⁴	Construction of motorways and express roads.	2.1.2.1	Construction, excavation or realignment of roads, tunnels, viaducts or bridges, not covered by Category I, if located ODZ or at the edge of the development zone.
2.1.1.2	Construction of new roads (or highways) of four or more lanes, or realignment and/or widening of an existing road of two lanes or less so as to provide four or more lanes, where such new, realigned and/or widened road or section would be 2km or more in continuous length.		

* The categories, criteria and thresholds indicated in this Schedule are without prejudice to the wide scope of these regulations, and to the need that projects likely to have significant effects on the environment be duly subjected to an effective assessment. Projects shall not be exempt from the provisions of these regulations on the premise that they are not explicitly or precisely specified, or that their title or description is different from that contained in this Schedule. In the event of any doubt as to whether a project is covered by this Schedule, the precautionary principle shall be adopted if the project may have significant effects on the environment.

† Wherever a development falls within the scope of more than one category, criterion or threshold of this Schedule, the most stringent category, criterion or threshold shall apply, unless the contrary is explicitly stated in this Schedule.

‡ Where mobile, reversible and/or temporary installations have the characteristics or impacts of projects in this Schedule, they shall be subject to the provisions of these regulations. Furthermore, when an installation is relocated, the need for a new environmental impact assessment or screening, as relevant, shall be considered in line with these regulations.

4 For the purposes of this Schedule, "motorways" and "express roads" mean roads that comply with the respective definitions in the European Agreement on Main International Traffic Arteries of 15 November 1975.

5 For the purposes of this Schedule, 'airport' means an airport which complies with the definition in Annex 14 of the 1944 Chicago Convention setting up the International Civil Aviation Organization.

2.2	Airports⁵		
2.2.1	Category I	2.2.2	Category II
2.2.1.1	Construction of airports, airstrips and airfields.	2.2.2.1	Expansion of an airport, airstrip or airfield, not falling within Category I.
		2.2.2.2	Construction or expansion of a heliport, other than a helipad located within the development zone.

2.3 Ports
Refer to section 6.0 – Development on the coast or at sea.

2.4	Other Transport		
2.4.1	Category I	2.4.2	Category II
2.4.1.1	Lines for long-distance railway traffic.	2.4.2.1	Tramways, railways (whether elevated, underground or otherwise), suspended lines or similar structures, not covered by Category I.
		2.4.2.2	Intermodal transshipment facilities, or intermodal terminals, not covered by Category I.

3.0	ENERGY INFRASTRUCTURE		
3.1	Electric Power Stations and Related Installations		
3.1.1	Category I	3.1.2	Category II
3.1.1.1	Thermal power stations and other combustion installations with a heat output of 50 megaWatts or more.	3.1.2.1	Industrial installations for the production of electricity, steam or hot water, not falling within Category I.

3.2	Nuclear Energy		
3.2.1	Category I		

- 3.2.1.1 Nuclear power stations and other nuclear reactors⁶ (including their extension, dismantling or decommissioning), or installations for:
- (i) the production or enrichment of nuclear fuel; or
 - (ii) the accumulation, storage, processing, reprocessing or disposal of irradiated nuclear fuel, radioactive wastes (including high-level radioactive waste), fission waste or irradiated fissile materials.

6 Nuclear power stations and other nuclear reactors cease to be such an installation where all nuclear fuel and other radioactively contaminated elements have been removed permanently from the installation site.

3.3 Renewable Energy			
3.3.1	Category I	3.3.2	Category II
		3.3.2.1	Installations for hydroelectric energy production.
		3.3.2.2	Installations for the harnessing of wind power for energy production (wind farms in excess of two wind turbines).

3.4 Electricity Transmission			
3.4.1	Category I	3.4.2	Category II
3.4.1.1	Overhead power lines with a voltage of 220kV or more and a length of 1km or more.	3.4.2.1	Transmission of electrical energy by overhead cables with a voltage of 100kV or more, not falling within Category I.

4.0 WATER RESOURCES, SEWERAGE AND PIPELINES			
4.1 Water Resources Management			
4.1.1	Category I	4.1.2	Category II
4.1.1.1	Dams or other installations designed for holding back water, or for permanent storage of water, which are: <ul style="list-style-type: none"> (i) more than 100m long; or (ii) more than 15m high. 	4.1.2.1	Dams and other installations designed to hold water or store it on a long term basis, not falling within Category I, and consisting of a dam or other retaining wall.

4.1.1.2	Works for the transfer of water resources (other than piped drinking water) between river basins, where: (i) the amount of water transferred exceeds 10 million cubic metres per year, if the transfer aims at preventing possible shortages of water; or (ii) the multi-annual average flow of the basin of abstraction exceeds 2,000 million cubic metres per year and the amount of water transferred exceeds 5% of that flow, in all other cases.	4.1.2.2	Works for the transfer of water resources between river basins, not included in Category I.
4.1.1.3	Groundwater abstraction or artificial groundwater recharge schemes, where the volume of water abstracted or recharged is equivalent to, or exceeds, 10 million cubic metres per year.	4.1.2.3	Groundwater abstraction or artificial groundwater recharge schemes, not falling within Category I.
		4.1.2.4	Water management projects for agriculture (including works for irrigation or use of treated water) or land drainage projects.
		4.1.2.5	Reverse osmosis or desalination plants, which have a capacity of over 50,000m ³ per day.
		4.1.2.6	Canalization or flood-relief works.

4.2	Sewage-related Development		
4.2.1	Category I	4.2.2	Category II
4.2.1.1	Waste-water treatment plants with a capacity catering for 150,000 population equivalent ⁷ or more.	4.2.2.1	Waste-water treatment plants, not falling within Category I.
4.3	Pipelines		
4.3.1	Category I	4.3.2	Category II
4.3.1.1	Pipelines for the transport of gas, oil or chemicals if they cover a distance of 40 km or more and have a diameter of 800mm or more.	4.3.2.1	Oil or gas pipeline installations not falling within Category I.

4.3.2.2 Long-distance aqueducts or main sewers (5km or more), not located within an existing vehicular right of way or passing through a protected site.

5.0 WASTE MANAGEMENT AND DISPOSAL ⁸

5.0.1	Category I	5.0.2	Category II
5.0.1.1	Waste disposal installations for the incineration, chemical treatment (as defined in Annex I to Directive 2008/98/EC on waste under heading D9), or landfilling of hazardous waste as defined in that Directive.	5.0.2.1	Installations or sites for disposal or incineration of waste, not falling within Category I.
5.0.1.2	Waste disposal installations for the incineration or chemical treatment (as defined in Annex I to Directive 2008/98/EC on waste under heading D9) of non-hazardous waste, with a capacity of 100 tonnes or more per day.	5.0.2.2	Sites for depositing or recycling sludge.

7 As defined in point 6 of article 2 of Council Directive 91/271/EEC on urban waste-water treatment.

8 'Treatment' means recovery or disposal operations, including preparation prior to recovery or disposal in accordance with Directive 2008/98/EC.

5.0.1.3	New landfill sites, excluding inert waste landfills.	5.0.2.3	Storage of scrap iron, including scrap vehicles.
		5.0.2.4	Knackers' yards.

6.0 DEVELOPMENT ON THE COAST OR AT SEA (INCLUDING PORTS)

6.1 Ports, Marinas and Waterways

6.1.1	Category I	6.1.2	Category II
6.1.1.1	Inland waterways and ports for inland-waterway traffic which permit the passage of vessels of 1350 tonnes dead weight or more.	6.1.2.1	Inland-waterways not included in Category I.
6.1.1.2	Trading ports, or piers for loading and unloading that are outside existing ports and which can take vessels of 1350 tonnes or more.	6.1.2.2	Development or extension of harbours and port installations (including: fishing harbours, dry docks, piers, bilge water recycling stations or ship tank cleaning) not covered by Category I.
		6.1.2.3	Marinas.

6.2 Reclamation, Dredging and Coastal Engineering

6.2.1	Category I	6.2.2	Category II
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		6.2.2.1	Reclamation of land from the sea, or other development in the sea affecting the seabed.
		6.2.2.2	Dredging or other changes to the seabed, excluding maintenance dredging within an already existing harbour or its official fairway.
		6.2.2.3	Coastal works to combat erosion, and works capable of altering the coast (through the construction of, for example, breakwaters, dykes, moles, jetties, groynes, sea-walls, wave-breakers, underwater berms, and other sea defence works) not covered by Category I, excluding the maintenance and repair of such works.
6.2.1.1	Creation of a new shore or beach.	6.2.2.4	Enlargement, modification or replenishment of an existing shore or beach.
6.3	Other Interventions on the Coast or on the Seabed		
6.3.1	Category I	6.3.2	Category II
6.3.1.1	Sites for the deposition or disposal of waste at sea.	6.3.2.1	Formation, extension or alteration of artificial reefs, or the sinking of vessels on the seabed.
		6.3.2.2	Construction of salt pans covering an area of 1000m ² or more.
		6.3.2.3	Development on the coast or in the sea, not covered by Category I, with a footprint of 500m ² or more.
		6.3.2.4	Change of use of land or sea, covering an area of 1 ha or more.
7.0	URBAN DEVELOPMENT AND RECREATIONAL PROJECTS		
7.1	Urban Development Projects		
7.1.1	Category I	7.1.2	Category II
		7.1.2.1	Projects which have: (i) a site area of 3ha or more; or (ii) a gross floor area of 30,000m ² or more; or (iii) a gross floor area of 10,000m ² or more for commercial use, including shops, shopping centres, offices or other business.

7.1.1.1	Construction or extension of hotels, holiday complexes, holiday villages, hostels, accommodation facilities, homes for the elderly, hospitals, or associated development, if located wholly or partly outside development zones and having: (i) a capacity of 250 beds or more; or (ii) a gross floor area of 10,000m ² or more; or a site area of 2.5 ha or more.	7.1.2.2	Construction or extension of hotels, holiday complexes, holiday villages, hostels, homes for the elderly, hospitals, or associated development, if located wholly or partly outside development zones and not covered by Category I.
		7.1.2.3	Car-parks with a gross floor area of 15,000m ² or more, or 600 parking spaces or more.

7.2 Recreational or Sporting Establishments			
7.2.1	Category I	7.2.2	Category II
7.2.1.1	Golf courses.	7.2.2.1	Theme parks.
		7.2.2.2	Permanent racing and test tracks for motorised vehicles.
		7.2.2.3	Ski-runs, ski-lifts, cable-cars, and associated developments.
		7.2.2.4	Permanent camping sites or caravan sites.

8.0 AGRICULTURE			
8.1 Livestock farms, stables, etc.			
		8.1.2	Category II
8.1.1.1	A new establishment or installation, or an extension thereto, for poultry production, with places (or equivalent capacity) for the intensive rearing of 85,000 broilers or 60,000 hens or more.	8.1.2.1	A new establishment or extension for poultry production, with places (or equivalent capacity) for the intensive rearing of 40,000 broilers or 40,000 hens or more.
8.1.1.2	A new establishment or extension with places for the intensive rearing of more than 3,000 production pigs of over 30kg, or with more than 900 places for sows.	8.1.2.2	A new establishment or extension with places for the intensive rearing of more than 2,000 pigs of over 30kg, or with 750 sow places or more.

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| 8.1.2.3 | A new cow rearing establishment or extension, with places (or equivalent capacity) for 300 milk cows or 300 beef cows or more. |
| 8.1.2.4 | A new establishment or extension for rabbit production with places (or equivalent capacity) for 3,000 breeding females or more. |
| 8.1.2.5 | A new establishment or extension for the production of ducks, turkeys, geese, peacocks, guinea fowl or other fowl, with places (or equivalent capacity) for 10,000 heads or more. |
| 8.1.2.6 | A new establishment or extension for sheep or goat rearing, with places (or equivalent capacity) for 800 heads or more. |
| 8.1.2.7 | Stables or farms with places (or equivalent capacity) for 50 horses (or similar animals e.g. donkeys, ponies or mules) or more. |
| 8.1.2.8 | A new establishment or extension with a mix of farm animals may require an environmental impact assessment depending on the type and scale of development, the site area and the location. |
| 8.1.2.9 | Any establishment rearing: <ul style="list-style-type: none"> (i) exotic animals (e.g. emus, ostriches, kangaroos, or crocodiles), whether for consumption or otherwise; or (ii) other animals (e.g. snails, insects or frogs) that can create an ecological imbalance or other impacts if they escape into the wild. |
| 8.1.2.10 | Developments with a site area of 8,000m ² or more. |

8.2 Aquaculture			
8.2.1	Category I	8.2.2	Category
8.2.1.1	Aquaculture establishments for any type of aquatic organism (including fish farms, hatcheries, tuna pens, shellfish or crustacean farms, seaweed production units, or similar establishments), or extensions to an existing establishment, if covering an area of 2 ha or more and located within 6km of the coast.	8.2.2.1	Aquaculture establishments for any type of aquatic organism (including fish farms, hatcheries, tuna pens, shellfish or crustacean farms, seaweed production units, or similar establishments), as well as extensions or modifications to an existing establishment, or any ancillary facilities, not covered by Category I.

8.3 Other agricultural or related developments			
		8.3.2.1	Projects for the restructuring of rural land holdings.
		8.3.2.2	Projects for the use of uncultivated land or semi-natural areas for intensive agricultural purposes.
		8.3.2.3	Initial afforestation and deforestation for the purposes of conversion to another type of land use.

9.0 QUARRIES, MINERAL EXTRACTION AND RELATED INTERVENTIONS			
9.0.1	Category I	9.0.2	Category II
9.0.1.1	Quarries, open-cast mines or projects for the extraction of minerals, ores or peat, or extensions thereto, where the proposed area is 3 ha or more	9.0.2.1	Quarries, open-cast mines or underground mines, or projects for the extraction of minerals, ores or peat, as well as extensions thereto or ancillary surface or subsurface installations, not covered by Category I.
		9.0.2.2	Extraction of minerals by marine, fluvial or valley dredging.
		9.0.2.3	Restoration and after-use of existing or disused quarries or mines, other than for restoration of the site back to its pristine state.

9.0.2.4	<p>Rock processing plant, not within an existing operational quarry, and not covered by Category I.</p> <p><i>Note: The Authority may waive this requirement for plant within the confines of an approved excavation site, if it is of the opinion that this would facilitate re-use of excavated material in situ and would minimise adverse impact on the environment, and as long as installation of such plant would not circumvent any significant environmental safeguards of an approved works management plan.</i></p>
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10.0 EXTRACTION, STORAGE AND PROCESSING OF GASES, FUELS AND CHEMICALS			
10.0.1	Category I	10.0.2	Category II
10.0.1.1	Extraction of petroleum and natural gas for commercial purposes where the amount extracted exceeds 500 tonnes per day in the case of petroleum and 500,000 cubic metres per day in the case of gas.	10.0.2.1	Industrial installations for the extraction of coal, petroleum, natural gas, ores or bituminous shale, not covered by Category I.
		10.0.2.2	Surface and/or underground storage of combustible gases or natural gas, with a capacity of 100 tonnes or more, and not covered by Category I.
10.0.1.2	Installations for the storage of petroleum, petrochemical, or chemical products with a capacity of 200,000 tonnes or more.	10.0.2.3	Storage facilities for petroleum, fossil fuels, petrochemical or chemical products, with a capacity of 50,000 tonnes or more, not covered by Category I.
10.0.1.3	Gas or crude-oil refineries.	10.0.2.4	Development or extension of fuel servicing stations, including petrol stations and gas distribution stations.
10.0.1.4	Installations for the gasification or liquefaction of coal or bituminous shale.	10.0.2.5	Coke ovens (dry coal distillation).
		10.0.2.6	Installations for industrial briquetting of coal and lignite.

10.0.2.7 Industrial installations for carrying gas, steam and hot water.

11.0 CARBON CAPTURE, GEOLOGICAL STORAGE AND DEEP DRILLING

11.0.1	Category I	11.0.2	Category II
11.0.1.1	Installations for the capture of carbon dioxide (CO ₂) streams for the purposes of geological storage pursuant to Directive 2009/31/EC from installations covered by Category I, or where the total yearly capture of carbon dioxide (CO ₂) is 1.5 megatonnes or more.	11.0.2.1	Installations for the capture of carbon dioxide (CO ₂) streams for the purposes of geological storage pursuant to Directive 2009/31/EC from installations not covered by Category I.
11.0.1.2	Pipelines with a diameter of 800mm or more and a length of 40 km or more, for the transport of carbon dioxide (CO ₂) streams for the purposes of geological storage, including any associated booster stations.	11.0.2.2	Pipeline installations for the transport of carbon dioxide (CO ₂) streams for the purpose of geological storage, not falling within Category I.
11.0.1.3	Storage sites pursuant to Directive 2009/31/EC on the geological storage of carbon dioxide (CO ₂).	11.0.2.3	Deep drillings, in particular geothermal drilling, drilling for the storage of nuclear waste material, or drilling for water supplies but, unless significant impacts on the environment are likely, excluding drillings for investigating the stability of soils.

12.0 INDUSTRIAL DEVELOPMENT

12.1 Mineral Processing

12.1.1.1	Installations for the extraction, production, treatment, transformation and processing of asbestos or products containing asbestos, including the manufacture of asbestos cement products.	12.1.2.1	Installations for the manufacture or production of asbestos products, not falling within Category I.
12.1.1.2	Installations for the manufacture of friction material products containing asbestos, with a capacity of 50 tonnes or more per year.	12.1.2.2	Installations for smelting mineral substances or production of mineral fibres, not falling within Category I.
12.1.1.3	Installations for the manufacture, production or use of other products containing asbestos with a capacity of 200 tonnes or more of asbestos per year.	12.1.2.3	Installations for the manufacture of artificial mineral fibres.
12.1.1.4	Installations for the production or manufacture of cement.	12.1.2.4	Lime kilns.

12.1.2.5	Installations for the production of concrete blocks, bricks, asphalt or tarmac.
12.1.2.6	Installations for the manufacture of glass or glass fibre.
12.1.2.7	Installations for the manufacture of ceramic products by burning, in particular roofing tiles, bricks, refractory bricks, tiles, stoneware or porcelain.

12.2 Production and Processing of Metals			
12.2.1	Category I	12.2.2	Category II
12.2.1.1	Installations for the smelting of cast-iron, steel or other metals, including integrated works for initial smelting.	12.2.2.1	Installations for roasting, pelletizing or sintering of ores, not falling within Category I.
12.2.1.2	Installations for the production of non-ferrous crude metals or their alloys from ore, concentrates or secondary raw materials by metallurgical, chemical or electrolytic processes.	12.2.2.2	Ferrous metal foundries and forges, and installations for the production of pig iron or steel (primary or secondary fusion) including continuous casting, not falling within Category I.
		12.2.2.3	Installations for the processing of ferrous metals, including: (i) hot-rolling mills; (ii) smitheries with hammers; and (iii) application of protective fused metal coats.
		12.2.2.4	Installations for the production or processing (including alloyage, smelting, refining, drawing and rolling) of non-ferrous metals, other than precious metals, including recovered products (refining, foundry casting, etc.), not falling within Category I.
		12.2.2.5	Installations for the surface treatment and coating of metals and plastic materials using an electrolytic or chemical process.
		12.2.2.6	Manufacture or assembly of motor vehicles or manufacture of motor-vehicle engines.

12.2.2.7	Shipyards
12.2.2.8	Installations for the construction or repair of aircraft.
12.2.2.9	Manufacture of railway equipment.
12.2.2.10	Swaging by explosives.

12.3	Chemical Industry		
12.3.1	Category I	12.3.2	Category II

12.3.1.1	Integrated chemical installations (i.e. installations for the manufacture of substances on an industrial scale, using chemical conversion processes in which several units are juxtaposed and are functionally linked to one another) for the production of: <ul style="list-style-type: none"> (i) basic organic or inorganic chemicals; (ii) phosphorus-, nitrogen-, or potassium-based fertilisers (simple or compound fertilisers); (iii) basic plant health products or biocides; (iv) basic pharmaceutical products using a chemical or biological process; (v) explosives; or (vi) any other product not listed above but which requires similar treatment. 	12.3.2.1	Treatment of intermediate products and production of chemicals, not falling within Category I.
		12.3.2.2	Production of pesticides, pharmaceutical products, paints, varnishes, elastomers or peroxides, not falling within Category I.

12.4	Food Industry		
		12.4.2	Category II

12.4.2.1	Manufacturing of vegetable or animal oils and fats.
12.4.2.2	Packing or canning of animal or vegetable products.
12.4.2.3	Manufacture of dairy products.
12.4.2.4	Brewing or malting.
12.4.2.5	Confectionery or syrup manufacture.
12.4.2.6	Installations for the slaughter of animals.

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| 12.4.2.7 | Installations for the manufacture of industrial starch. |
| 12.4.2.8 | Fish meal or fish-oil factories. |
| 12.4.2.9 | Sugar factories. |

12.5 Textile, Leather, Wood, Paper and Rubber Industries			
12.5.1	Category I	12.5.2	Category II
12.5.1.1	Industrial plants for the production of: (a) pulp from timber or similar fibrous materials; or (b) paper or board with a production capacity exceeding 200 tonnes per day.	12.5.2.1	Industrial plants for the production of paper or board, not falling within Category I.
		12.5.2.2	Plant for the pretreatment (e.g. washing, bleaching, or mercerization) or dyeing of fibres or textiles.
		12.5.2.3	Tanneries, or plant for the tanning of hides and skins.
		12.5.2.4	Installations for cellulose processing or production.
		12.5.2.5	Manufacture or treatment of elastomer-based products.

12.6 Other Industry			
12.6.2	Category II		
	12.6.2.1	Installations for the recovery or destruction of explosive substances.	
	12.6.2.2	Test-benches for engines, turbines or reactors.	

12.7 Industrial Estates			
12.7.1	Category I	12.7.2	Category II
		12.7.2.1	Industrial estate development projects.

13.0 CHANGES OR EXTENSIONS TO APPROVED PROJECTS, AND REACTIVATION OF PROJECTS			
13.0.1	Category I	13.0.2	Category II
13.0.1.1	Any change to, or extension of, projects (even if the project is already authorised, executed or in the process of being executed) where the change or extension itself meets the thresholds or criteria set out in Category I.	13.0.2.1	Any change to, or extension of, projects (even if the project is already authorised, executed or in the process of being executed), particularly projects covered by Category I or Category II, where the change or extension itself does not fall under Category I but: <ul style="list-style-type: none"> (i) meets the thresholds or criteria set out in Category II; or (ii) may have significant adverse effects on the environment.
		13.0.2.2	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.

SCHEDULE II
(Regulation 12)**Information to be provided in the Project Description Statement**

1. A description of the project, including in particular:
 - (a) a description of the physical characteristics of the whole project, including size, scale, design and phasing of the project, and covering all construction, demolition and excavation works;
 - (b) a description of the location of the project, including the site boundaries clearly shown on a map base, with particular regard to the environmental sensitivity of geographical areas likely to be affected;
 - (c) a description of the envisaged operations and process flow (where this is applicable) identifying the nature of the inputs, throughputs, outputs, and relevant processes; and
 - (d) ancillary requirements including, but not limited to, access and parking arrangements, and infrastructural services.
2. A description of the aspects of the environment likely to be affected by the project.
3. A description, to the extent enabled by the information available, of any likely effects of the project on the environment resulting from:
 - (a) changes caused to the site;
 - (b) the expected residues and emissions and the production of waste, where relevant; and
 - (c) the use of natural resources, in particular soil, land, water and biodiversity.

The criteria of Schedule III shall be taken into account, as relevant, when compiling the information in accordance with paragraphs 1 to 3 hereof.

SCHEDULE III
(Regulation 14)**Criteria to be applied in Screening**

The screening shall address at least the following criteria, as relevant to the project and its context. Aspects identified in Schedule IV may also be addressed, insofar as relevant and proportionate to the screening, and as long as the required information or considerations are reasonably available at the time of screening.

1. Characteristics of the project

The characteristics of the project must be considered, with particular regard to:

- (a) the nature, size, scale and design of the whole project;
- (b) cumulation, interaction or interference with other projects that are existing, approved or foreseeable;
- (c) the use or consumption of natural resources, in particular land, soil, water and biodiversity;
- (d) the production of waste;
- (e) pollution, nuisances and disturbance to the surroundings;
- (f) the risk and implications of major accidents or disasters which may be relevant to the project, including those caused by climate change, in accordance with scientific knowledge, as well as the vulnerability, exposure and resilience of the project and its area of influence thereto; and
- (g) the risks to human health (for example due to water contamination or air pollution).

2. Location of the project

The environmental sensitivity of geographical areas likely to be affected by the project must be considered, with particular regard to:

- (a) the existing and approved land use;
- (b) the relative abundance, availability, quality, sensitivity and regenerative capacity of natural resources, soil, land, water, ecosystems and biodiversity in the area and its underground;
- (c) the conservation value and impact-absorption capacity of the environment, paying particular attention to the following areas:
 - (i) wetlands, riparian areas, natural water bodies including aquifers, valleys and their watersheds, and other factors of hydrological relevance;
 - (ii) coastal zones and the marine environment;
 - (iii) mountain and forest areas;
 - (iv) nature reserves and parks;
 - (v) areas that are classified, protected or designated for conservation under any environmentally-relevant legislation, including inter alia, areas classified or protected under national legislation or otherwise designated under any supra-national agreement, convention or protocol, as well as Natura 2000 sites;

- (vi) areas in which there has already been a failure to meet the environmental quality standards laid down in any relevant legislation, or in which it is considered that there is such a failure, or where any relevant thresholds or ceilings are close to being exceeded, or where the project is likely to cause additional loading which cannot be sustained by the carrying capacity of the environment;
- (vii) densely populated areas;
- (viii) landscapes, sites and features of scenic, historical, cultural or archaeological significance; and
- (ix) natural and semi-natural habitats, or any other environmental features of known or potential scientific, geological, ecological or other natural heritage value.

3. **Type and characteristics of the potential impact**

The likely or possible significant effects of the project on the environment must be considered in relation to the criteria set out under paragraphs 1 and 2 of this Schedule, taking into account:

- (a) the nature of the impact;
- (b) the magnitude and spatial extent of the impact (for example, the geographical area and size of the population likely to be affected);
- (c) the transboundary nature of the impact, if relevant (especially in the case of projects located close to the national frontier, or projects which could give rise to significant effects far removed from the site of the project);
- (d) the intensity and complexity of the impact, including direct impacts as well as indirect implications of interaction with natural processes or with other impacts;
- (e) the probability of the impact occurring;
- (f) the expected onset, duration, frequency and degree of reversibility of the impact;
- (g) the cumulation of the impact with the effects of other projects that are existing, approved, or foreseeable; and
- (h) the possibility of effectively reducing or avoiding the impact, and the reliability with which the impact can be predicted, determined, monitored, managed and addressed.

SCHEDULE IV
(Regulation 16)

Information for the EIA Report

Where an environmental impact assessment is required, the information to be provided in the EIA report shall include, as relevant:

1. A description of the project and its purpose, including in particular:

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- (a) a description of the physical characteristics (including design, size and other relevant features) of the whole project and of any demolition works, and of the land-use requirements during the construction, operational and decommissioning phases;
 - (b) a description of the main characteristics of the operational phase of the project (in particular any production process), for instance, energy demand and energy used, nature and quantity of the materials and natural resources used (including water, land, soil and biodiversity); and
 - (c) an estimate, by type and quantity, of expected residues and emissions (including: water, air, soil and subsoil pollution; noise, vibrations, light, heat, and radiation; and quantities and types of waste) resulting from the construction, operation and decommissioning phases of the proposed project.
 2. A description of the location of the project and its baseline, with particular regard to the physical characteristics of the site and its surroundings and the environmental sensitivity of geographical areas likely to be affected.
 3. A description of the reasonable alternatives studied by the developer (in terms of, inter alia, project design, technology, location, size and scale), and an explanation of the main reasons for selecting the chosen option including a comparison of the environmental effects of the project relative to those of the other alternatives considered. The 'zero option' (i.e. no-development scenario) shall also be duly considered.
 4. A description of the relevant aspects of the current state of the environment (baseline scenario) and an outline of the likely evolution thereof without implementation of the project, as far as natural changes from the baseline scenario can be assessed with reasonable effort on the basis of the available environmental information and scientific knowledge.
 5. A description of the aspects of the environment likely to be significantly affected by the project, including, in particular and as relevant:
 - (a) population and human health;
 - (b) biodiversity and ecology, including but not limited to species and habitats protected under other legislation;
 - (c) the physical environment, including: land; rock (including bedrock and geological, physiographical, geomorphological, lithostratigraphical, and palaeontological formations); soil (including soil composition and organic matter, erosion, compaction and sealing); water (including aquifers, springs, water bodies and hydrological formations, hydromorphology, water quantity and quality); air (including air quality); as well as other natural features and combinations of such formations or features;
 - (d) climate and environmental dynamics (including greenhouse gas emissions, and considerations relevant to climate change adaptation);
 - (e) the coastal and marine environment;
 - (f) existing physical structures, material assets and cultural heritage (including architectural, historical and archaeological aspects);

- (g) the landscape and visual amenity, as well as sites or areas of value from the point of view of science, scenery, conservation or natural beauty;
 - (h) natural resources and natural processes; and
 - (i) combinations, inter-relationships and interactions between the above factors, as well as the natural and anthropogenic forces and processes that affect them.
6. A description of the likely significant effects of the project on the environment resulting from, inter alia:
- (a) the construction and existence of the project, including, where relevant, demolition works;
 - (b) the use of natural resources, in particular land, soil, water and biodiversity, considering as far as possible the sustainable availability of these resources;
 - (c) the emission of pollutants, noise, vibrations, light, heat and radiation; the creation of nuisances; and the disposal and recovery of waste;
 - (d) the risks to human health, cultural heritage and the environment (for example due to accidents or disasters);
 - (e) the cumulation of effects of the project with those of other existing and/or approved projects, taking into account existing environmental problems, areas of particular environmental importance likely to be affected, and the use of natural resources;
 - (f) the impact of the project on climate (for example the nature and magnitude of greenhouse gas emissions), and the vulnerability of the project and its environs to climate change;
 - (g) the technologies and the substances used; and
 - (h) the ancillary requirements of the project and its operations, and all additional interventions or pressures on the environment that are likely to arise as a consequence of the project.

The description of the likely significant effects on the environment shall cover the direct effects and any indirect, secondary, cumulative and transboundary effects of the project, whether short-term, medium-term or long-term, permanent or temporary, positive or negative. This description shall also take into account the environmental protection objectives and targets established at national or supra-national level which are relevant to the project.

7. A clear description of the forecasting methods, evidence and environmental information used to identify and assess the significant effects on the environment, as well as the underlying assumptions and the difficulties and uncertainties (for example technical deficiencies or gaps in knowledge) encountered compiling the required information.
8. A description of the features of the project and other measures which are envisaged to avoid, prevent, reduce or offset any likely significant adverse effects on the environment and, where appropriate, of the arrangements for monitoring their effectiveness, including any relevant post-project analysis. The description shall identify:
- (a) the limitations of such features and measures;

- (b) the extent to which significant adverse effects on the environment are actually avoided, prevented, reduced or offset; and
- (c) the level of confidence in such features and measures.

The description shall cover all phases (including the construction, operational and decommissioning phases) as relevant to the project. The consultants shall endeavour to ensure that the features and measures recommended are feasible, realistically implementable, reliable, not dependent on factors beyond the developer's effective control, verifiable, and enforceable.

9. A description of the expected significant effects and implications of the project on the environment deriving from the vulnerability, exposure and resilience of the project and its area of influence to all relevant risks of a major accident or disaster. Relevant information obtained or made available through risk assessments pursuant to Directive 2012/18/EU or Directive 2009/71/Euratom or through relevant assessments carried out under other legislation may be used for this purpose provided that the requirements of these Regulations are met. Where appropriate, this description should include:
 - (a) measures envisaged to prevent or mitigate the significant adverse effects that such events may have on the environment; and
 - (b) details of the preparedness for, and proposed response to, such emergencies.
 10. A proposed programme to monitor the site and the environmental impacts of the project during the construction, operational and decommissioning phases, as relevant. The proposal shall also include an identification of the records that the developer should keep for the purpose, as well as an indication of any additional measures which should be undertaken pursuant to the monitoring outcome.
 11. An identification, insofar as relevant from an environmental perspective, of operational permitting requirements, other required authorizations, and any prohibitions, limitations or obligations imposed by national, European Union, or international legislation, as may be applicable or foreseeable.
 12. A non-technical summary of the information provided under the above headings.
 13. A reference list detailing the sources used for the descriptions and assessments included in the report.
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