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L.N. 455 of 2020

**ENVIRONMENT PROTECTION ACT
(CAP. 549)**

**Environmental Impact Assessment
(Amendment No. 2) Regulations, 2020**

IN EXERCISE of the powers conferred by articles 54 and 55 of the Environment Protection Act, the Minister for the Environment, Climate Change and Planning, after consultation with the Environment and Resources Authority, has made the following regulations:-

Citation.

S.L. 549.46.

Amends
regulation 6 of
the principal
regulations.

Amends
regulation 12 of
the principal
regulations.

1. The title of these regulations is the Environmental Impact Assessment (Amendment No. 2) Regulations, 2020 and these regulations shall be read and construed as one with the Environmental Impact Assessment Regulations, hereinafter referred to as "the principal regulations".

2. Sub-regulation (2) of regulation 6 of the principal regulations shall be substituted by the following:

"(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.".

3. Sub-regulation (6) of regulation 12 of the principal regulations shall be substituted by the following:

"(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.".

4. Regulation 16 of the principal regulations shall be amended as follows: Amends regulation 16 of the principal regulations.

(a) in sub-regulation (5) thereof, immediately after the words "the Authority's website" there shall be added the words "without delay"; and

(b) sub-regulation (6) thereof shall be substituted by the following:

"(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."

5. Sub-regulation (2) of regulation 19 of the principal regulations shall be amended as follows: Amends regulation 19 of the principal regulations.

(a) immediately after the words "The EIA report shall be made available to" there shall be added the words "authorities and entities likely to be concerned by the project by reason of their specific environmental responsibilities and specifically to"; and

(b) the words " and through any other means or venues as the Authority may deem appropriate" shall be substituted by the words "and, where appropriate, through any other additional means as the Authority may establish".

6. Sub-regulation (3) of regulation 22 of the principal regulations shall be substituted by the following: Amends regulation 22 of the principal regulations.

S.L. 549.39.
Cap. 496. (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 Regulations, and, where not specifically regulated by such regulations, the Freedom of Information Act."

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Amends
regulation 23 of
the principal
regulations.

7. Regulation 23 of the principal regulations shall be amended as follows:

(a) sub-regulations (1) and (2) thereof shall be substituted by the following:

"(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.

(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."

(b) in sub-regulation (4) thereof immediately after the words "or annexes." there shall be added the words "Such documents, together with any addenda, shall be made publicly available in accordance with sub-regulation (1).",

Amends
regulation 30 of
the principal
regulations.

8. Regulation 30 of the principal regulations shall be substituted by the following:

"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:

Cap. 552.

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."

9. Regulation 32 of the principal regulations shall be amended as follows:

Amends
regulation 32 of
the principal
regulations.

(a) paragraph (d) thereof shall be renumbered as paragraph (e);

(b) paragraph (b) thereof shall be substituted by the following:

"(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) in sub-paragraph (i) of paragraph (c) thereof, the words "monitoring may be undertaken by the Authority or" shall be substituted by the words "monitoring shall be undertaken either by the Authority or by";

(d) in sub-paragraph (iv) of paragraph (c) thereof, the word "may" shall be substituted by the word "shall";

(e) immediately after paragraph (c) thereof, there shall be added the following new paragraph:

"(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."; and

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(f) in paragraph (e) thereof as renumbered, the words "paragraphs (a) to (c)" shall be substituted by the words "paragraphs (a) to (d)".

Adds new regulation to the principal regulations.

10. Immediately after regulation 32 there shall be added the following new regulation:

"Due consideration of public comments and of the Authority's position.

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.

(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."

Amends Schedule I to the principal regulations.

11. Schedule I to the principal regulations shall be amended as follows:

(a) under Category I of the heading 6.2 Reclamation, Dredging and Coastal Engineering, paragraph 6.2.1.4 shall be renumbered as 6.2.1.1;

(b) under Category II of the heading 6.2 Reclamation, Dredging and Coastal Engineering in paragraph 6.2.2.4 thereof, the word "REPLEN" shall be deleted; and

(c) in the Maltese version, under Category II of the heading 7.1 Proġetti ta' Żvilupp Urban, in paragraph 7.1.2.2 thereof, the words "u mhux kopert mill-Kategorija I" shall be substituted by the words "mhux koperti mill-Kategorija I".
