

*Consolidated text*

# ORDINANCE OF THE STATES OF DELIBERATION

ENTITLED

## **The Land Planning and Development (Environmental Impact Assessment) Ordinance, 2007 \***

*[CONSOLIDATED TEXT]*

### *NOTE*

*This consolidated version of the enactment incorporates all amendments listed in the footnote below. It has been prepared for the Guernsey Law website and is believed to be accurate and up to date, but it is not authoritative and has no legal effect. No warranty is given that the text is free of errors and omissions, and no liability is accepted for any loss arising from its use. The authoritative text of the enactment and of the amending instruments may be obtained from Her Majesty's Greffier, Royal Court House, Guernsey, GY1 2PB.*

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\* No. XXIV of 2007 (Recueil d'Ordonnances Tome XXXII, p. 332); as amended by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016).

# ORDINANCE OF THE STATES OF DELIBERATION

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## **The Land Planning and Development (Environmental Impact Assessment) Ordinance, 2007**

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(Made on 26th September, 2007.)

## **The Land Planning and Development (Environmental Impact Assessment) Ordinance, 2007**

**THE STATES**, in pursuance of their Resolutions of the 27<sup>th</sup> June 2002 and of the 26<sup>th</sup> January 2005<sup>a</sup> and in exercise of the powers conferred on them by sections 11(3), 12, 16(5) to (7), 28(3), 81 and 89 of the Land Planning and Development (Guernsey) Law, 2005<sup>b</sup> and of all other powers enabling them in that behalf, hereby order: –

### **PART I INTRODUCTORY PROVISIONS**

#### **Application.**

- 1.** This Ordinance applies to –
  - (a) any proposals in respect of which notice is given, pursuant to section 3(4) of the Plans Ordinance<sup>c</sup>, on or after the commencement of this Ordinance, and
  - (b) any application for planning permission made on or after the commencement of this Ordinance.

#### **EIA development.**

**2.** (1) Subject to subsection (2), **"EIA development"** means development –

- (a) of a description set out in Schedule 1 (**"Schedule 1 development"**),

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<sup>a</sup> Billet d'État No. XI of 2002 and Article I of Billet d'État No. I of 2005.

<sup>b</sup> Order in Council No. XVI of 2005.

<sup>c</sup> Approved by resolution of the States on the 26<sup>th</sup> September, 2007.

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- (b) to be carried out on land owned or occupied by the States and in respect of which the States have resolved that the [Authority] must not determine a planning application until –
  - (i) an EIA has been carried out, and
  - (ii) the environmental information arising from that EIA has been taken into account in determining the application ("**States development**"), or
- (c) of a description set out in –
  - (i) Schedule 2 ("**Schedule 2 development**"), or
  - (ii) section 40(5) or 44(3) of the Law ("**Section 40(5) or 44(3) development**") in relation to which the [Authority] is satisfied that it must have regard to the matters set out in section 40(5) or 44(3), as the case may be,

and in respect of which the [Authority] has issued a Screening Opinion to the effect that the development is EIA development by virtue of it being likely to have a significant effect on the environment.

- (2) Development shall not be treated as –
  - (a) Schedule 1 or 2 development, if the [Authority] determines in writing that the development in question is of so minor a nature that it is incapable of having a significant adverse effect on the quality of the environment, use of natural resources or biological diversity, or
  - (b) Schedule 1, 2 or Section 40(5) or 44(3) development

in relation to an EIA application for such development, if the [Authority] determines in writing that the application would have to be refused by the [Authority] in accordance with section 12(1) of the General Ordinance<sup>d</sup>,

and where an EIA application is made that determination shall be made within 28 days beginning with the date of the [Authority]'s receipt of the application or within such longer period as the [Authority] and the applicant may agree in writing.

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**NOTE**

*In section 2, the word "Authority" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 8, with effect from 1st May, 2016.*

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**PART II**

**EIA IN RELATION TO PLANS AND BRIEFS**

**Plans and Local Planning Briefs—requirement for EIA.**

3. (1) Where proposals include policies relating to development which is Schedule 2 or Section 40(5) or 44(3) development, the [Authority] shall issue a Screening Opinion as to whether or not the development is EIA development and in considering whether or not such development is likely to have significant environmental effects it shall –

- (a) consider, in particular the matters set out in Schedule 4, and
- (b) give brief reasons for its conclusions.

(2) Where proposals include policies relating to EIA development then the [Authority] shall –

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<sup>d</sup> Approved by resolution of the States on the 26<sup>th</sup> September, 2007.

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- (a) carry out or secure the carrying out of an EIA of the policies to which that development relates, and
- (b) prepare or secure the preparation of an Environmental Statement in relation to that EIA,

during the preparation of those proposals and, where the proposals contain such policies at that time, before the proposals are published under section 8 of the Plans Ordinance.

(3) The EIA carried out and Environmental Statement prepared pursuant to subsection (2) shall be undertaken in such detail and at such a level as reflects the level of detail regarding the EIA development set out in the policy in question including in particular –

- (a) whether a particular site has been selected for the development so that a more precise assessment of the environmental effects of the policy can be undertaken, and
- (b) the details set out regarding the precise nature of the development.

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**NOTE**

*In section 3, the word "Authority" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 8, with effect from 1st May, 2016.*

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**Prohibition on adopting Plans and Local Planning Briefs without consideration of environmental information.**

4. Proposals containing policies relating to EIA development shall not be –

- (a) submitted to the States for adoption unless the [Authority] has complied with the requirements of

section 3(2) of this Ordinance and with those provisions of section 9(2) and (4) of the Plans Ordinance which specifically relate to EIA development,

- (b) adopted by the States unless the States has taken the Environmental Statement relating to the EIA of those policies into account before passing its resolution.

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**NOTE**

*In section 4, the word in square brackets was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 8, with effect from 1st May, 2016.*

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**PART III**

**EIA IN RELATION TO PLANNING APPLICATIONS AND CERTAIN  
APPEALS**

**Prohibition on granting planning permission without consideration of environmental information.**

**5.** (1) The [Authority] or the Planning Tribunal must not grant planning permission pursuant to an application or appeal under section 68 of the Law relating to EIA development unless –

- (a) an EIA has been carried out,
- (b) an Environmental Statement of that EIA has been provided,
- (c) where a Compliance Document is required pursuant to section 10(2), a Compliance Document has been provided, and
- (d) it has taken the matters set out in the Environmental Statement, and, where relevant, the Compliance

Document, into consideration in making its decision.

(2) For the avoidance of doubt, the provisions of section 5(1)(d) apply on the determination of an appeal by the Planning Tribunal notwithstanding the provisions of section 69(1) of the Law.

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**NOTE**

*In section 5, the word in square brackets was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 8, with effect from 1st May, 2016.*

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**Pre-application stage—request for Screening Opinion.**

6. (1) The [Authority] shall issue a Screening Opinion as to whether or not an EIA is required within 28 days beginning with the date of its receipt of a duly made request for a Screening Opinion under subsection (2) or within such longer period as the [Authority] and the applicant may agree in writing.

(2) A person who is minded to carry out development may request the [Authority] in writing to adopt a Screening Opinion in relation to the proposed development before he submits an application for planning permission.

(3) A request to the [Authority] under subsection (2) must include

—

- (a) a plan sufficient to identify the development site,
- (b) a brief description of the nature and purpose of the development,
- (c) a description of the current use of the development site and the condition of the environment at that site,
- (d) a description of any information which is readily or publicly available relating to the environmental impact of the development and the view of the person making

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the request as to the reliability and adequacy of that information, and

- (e) a description of the environmental impacts of the development which the person making the request considers will need to be addressed.

(4) The [Authority] may request in writing such additional information as it considers necessary to issue a Screening Opinion if on receipt of a request it considers that it has not been given sufficient information to issue an opinion.

(5) Where the [Authority] has to consider whether or not Schedule 2 or Section 40(5) or 44(3) development is likely to have significant environmental effects, the [Authority] shall –

- (a) consider in particular the matters set out in Schedule 4, and
- (b) give brief reasons for its conclusions.

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**NOTE**

*In section 6, the word "Authority" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 8, with effect from 1st May, 2016.*

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**Application stage—procedure where it is established that an EIA is required.**

7. Where the [Authority] receives an EIA application for EIA development which is –

- (a) Schedule 1 or States development, or
- (b) Schedule 2 or section 40(5) or 44(3) development in respect of which it has issued a Screening Opinion at the pre-application stage pursuant to section 6 to the

effect that it is EIA development,

it must, unless it issues a determination under section 2(2), issue an opinion in writing to the applicant specifying the matters that the EIA should address and the level of detail required ("**Scoping Opinion**") within 28 days beginning with the date of receipt of the planning application or within such longer period as the [Authority] and the applicant may agree in writing.

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**NOTE**

*In section 7, the word "Authority" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 8, with effect from 1st May, 2016.*

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**Application stage—procedure where it is not established that an EIA is required.**

8. (1) Where the [Authority] receives a planning application for development, which is Schedule 2 or Section 40(5) or 44(3) development, in respect of which it has not issued a Screening Opinion at the pre-application stage pursuant to section 6, it must, unless it issues a determination under section 2(2) –

- (a) send the applicant a written request for such of the information set out in section 6(3) as it requires to issue a Screening Opinion, or
- (b) where it requires no such further information, issue a Screening Opinion and, where it decides that the development is EIA development, a Scoping Opinion to the applicant,

within 28 days beginning with the date of receipt of the planning application or within such longer period as the [Authority] and the applicant may agree in writing.

(2) Where the [Authority] requests further information under subsection (1), it shall –

- (a) issue a Screening Opinion, and
- (b) where it decides, following receipt of that information, that the development is EIA development, a Scoping Opinion,

to the applicant within 28 days beginning with the date of its receipt of that information or within such longer period as the [Authority] and the applicant may agree in writing.

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**NOTE**

*In section 8, the word "Authority" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 8, with effect from 1st May, 2016.*

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**Scoping Opinions.**

9. (1) Any Scoping Opinion may include a summary of any requirements relating to the environmental impact of the development which –
- (a) the [Authority] is likely to require by way of condition or otherwise before granting planning permission, and
  - (b) the [Authority] considers are likely to be required pursuant to any other enactment.
- (2) The [Authority], in preparing a Scoping Opinion –
- (a) must consult with any department of the States whose area of responsibility may be affected by the development in question which shall include any department of the States which –
    - (i) is promoting or supporting the development in question, or

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- (ii) is responsible for the requirements of any legislation referred to in the Scoping Opinion,
- (b) may consult with any department of the States not falling within paragraph (a), and
- (c) may seek advice from or consult with any persons or bodies who reasonably appear to the [Authority] to have appropriate expertise relating to the matters to be addressed in the Scoping Opinion.

(3) A Scoping Opinion must include a brief description of the nature and purpose of the development and, subject to subsections (4) and (6), must include such of the matters set out in Schedule 3 as the [Authority] reasonably considers are relevant to the development in question.

(4) Where the [Authority] considers that a particular matter relating to the environment need not be addressed in the EIA then the Scoping Opinion must set out the reasons why.

(5) Where at any time before the determination of the planning application in question it appears to the [Authority] that the EIA should address matters not referred to in the Scoping Opinion, then it shall issue an amended Scoping Opinion and, for the avoidance of doubt –

- (a) subsections (2) to (4) shall apply to the preparation and issue of the amended Scoping Opinion, and
- (b) this subsection shall apply to any amended Scoping Opinion.

(6) Where a document purporting to be an Environmental Statement is submitted with a planning application for EIA development, then the Scoping Opinion –

- (a) may only include such of the matters set out in

Schedule 3 as the [Authority] considers are necessary to specify any additional matters that need to be addressed in the EIA as evidenced by that document, and

- (b) may state that the document demonstrates that an EIA has been carried out and that the [Authority] accepts the document submitted as an Environmental Statement for the purposes of this Ordinance.

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**NOTE**

*In section 9, the word "Authority" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 8, with effect from 1st May, 2016.*

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**Environmental Impact Assessment.**

**10.** (1) Subject to section 9(6), where a Scoping Opinion has been issued in relation to an EIA application, then the applicant shall carry out or secure the carrying out of an EIA and send an Environmental Statement to the [Authority].

(2) Where the [Authority] has included in its Scoping Opinion a summary of any requirements relating to the environmental impact of the development pursuant to section 9(1), the applicant must send to the [Authority] a written statement, in non-technical terms, setting out how the applicant, or person minded to carry out the development, proposes to comply with those requirements ("**Compliance Document**") and such Compliance Document may form part of the Environmental Statement.

(3) Subject to subsection (5), upon receipt of a document which the applicant has submitted as an Environmental Statement (whether submitted with or after the planning application) or a Compliance Document, the [Authority] must consider whether the document in question includes all the matters that must be included in the Environmental Statement or the Compliance Document, as the case may be.

(4) If the [Authority] considers that the document submitted does not include all the matters that must be included in the Environmental Statement or the Compliance Document, as the case may be, then it may request in writing that a revised document is submitted which includes the additional matters specified in that request.

(5) Where the [Authority] is the applicant (whether alone or jointly with any other person) for an EIA application, instead of complying with subsection (3) it may send the document it has prepared as an Environmental Statement to any independent person or body it considers has appropriate expertise to consider whether the document includes all the matters that must be included in an Environmental Statement and in finalising the document the [Authority] must take into account the conclusions of that body or person.

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**NOTE**

*In section 10, the word "Authority" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 8, with effect from 1st May, 2016.*

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**EIA applications and period for making a decision.**

**11.** For the purposes of section 68(8) (calculation of periods for purposes of certain appeals) of the Law an EIA application shall not be considered to be duly made until any of the following has occurred –

- (a) the [Authority] has made a determination pursuant to section 2(2) or issued a Screening Opinion to the effect that the development is not EIA development,
- (b) except in the circumstances set out in paragraph (c), the [Authority] has received an Environmental Statement and, where required, a Compliance Document in respect of the application, or
- (c) where a Scoping Opinion falling within section 9(6)(b) has been issued which does not require the applicant to

send a Compliance Document to the [Authority], that Scoping Opinion has been issued,

except that where the [Authority] fails to make a determination pursuant to section 2(2), issue a Screening Opinion, a Scoping Opinion or any request under section 8(1) within the period specified or agreed pursuant to this Ordinance for the issuing of the document in question then time shall start to run, for the purposes of calculating the three month period for the making of a decision, and shall continue to run until the [Authority] issues the relevant document.

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**NOTE**

*In section 11, the word "Authority" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 8, with effect from 1st May, 2016.*

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**Appeal to the Planning Tribunal without an Environmental Statement.**

**12.** (1) Where, on determination of an appeal under section 68 of the Law –

- (a) the Planning Tribunal is to deal with a planning application which is the subject of the appeal, and
- (b) it appears to the Planning Tribunal that the relevant application is an EIA application in respect of which no determination under section 2(2), Screening Opinion or Scoping Opinion has been issued by the [Authority],

then sections 2(2), 7 (except subsection (b)) and 8, 9 (except subsection (6)) and 10 (except subsection (5)) shall apply to the appeal in respect of an EIA application as they apply to an EIA application with any necessary modifications including those set out in subsection (2).

- (2) The modifications referred to in subsection (1) are that –

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- (a) references to "the [Authority]" except –
  - (i) those referred to in paragraph (b), and
  - (ii) those referring to the [Authority] not issuing a Screening Opinion at the pre-application stage, or related expressions,shall be read as referring to "the Planning Tribunal",
- (b) provisions referring to the [Authority] receiving a planning application or an EIA application or to the date of receipt of a planning application, or related expressions, shall be construed as referring to where the Chairman of the Planning Panel receives a notice of appeal in relation to an EIA application pursuant to section 68(5) of the Law or the date of his receipt of that notice, as the case may be,
- (c) subject to paragraph (b), references to "application", "EIA application" or "planning application" shall be read as "appeal relating to an EIA application",
- (d) references to "applicant" shall be read as referring to "appellant", and
- (e) references to section 9(6) shall be omitted.

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**NOTE**

*In section 12, the word "Authority" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 8, with effect from 1st May, 2016.*

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PART IV  
GENERAL PROVISIONS

**Interpretation.**

**13.** (1) In this Ordinance, unless the context requires otherwise –

**"Compliance Document"** shall be construed in accordance with section 10(2),

**"[Authority]"** means the States of Guernsey [Development & Planning Authority],

**"department of the States"** includes any Council or Committee, however called, thereof,

**"development"** shall be construed in accordance with section 13(1) of the Law and Part I of the General Ordinance,

**"Development Plan"** means a current adopted plan prepared pursuant to sections 8 and 11 of the Law and includes any current adopted amendment thereto,

**"EIA application"** means an application for planning permission for Schedule 1 or 2, States or Section 40(5) or 44(3) development and shall include an application for development falling within section 2(2),

**"EIA development"** shall be construed in accordance with section 2,

**"enactment"** includes a Law, an Ordinance and any subordinate legislation and any provision or portion of a Law, an Ordinance or any subordinate legislation,

**"Environmental Impact Assessment"** ("EIA") means carrying out the steps necessary to assess the environmental effects of the EIA development or Plan or Local Planning Brief policies in question, as the case may be, in accordance with –

(a) the requirements of this Ordinance, and

- (b) any Scoping Opinion issued by the [Authority],

**"Environmental Statement"** means a written statement of the findings from carrying out an EIA which includes –

- (a) in relation to an EIA of EIA development, the matters set out in Schedule 5, or
- (b) in relation to an EIA of a Plan or Local Planning Brief policy, the matters set out in Schedule 6,

**"General Ordinance"** means the Land Planning and Development (General Provisions) Ordinance, 2007,

**"the Law"** means the Land Planning and Development (Guernsey) Law, 2005,

**"Local Planning Brief"** means a current adopted brief prepared pursuant to sections 10 and 11 of the Law including any current adopted amendment thereto,

**"Plan"** means a Development Plan or a Subject Plan,

**"Planning Panel"** means the Panel established under section 86 of the Law,

**"Planning permission"** means the permission which is required under section 14 of the Law for the carrying out of any development of land,

**"Planning Tribunal"** means the Tribunal the members of which are appointed under section 87 of the Law to hear and determine an appeal under the Law,

**"Plans Ordinance"** means the Land Planning and Development (Plans) Ordinance, 2007,

**"proposals"** means proposals for a fresh or replacement Plan or Local Planning Brief or for amendments thereto,

**"Ramsar site"** means a wetland designated under paragraph 1 of article 2, for inclusion in the list of wetlands of international importance referred to in that article, of the Convention on Wetlands of International Importance especially as Waterfowl Habitat signed at Ramsar on 2<sup>nd</sup> February, 1971 as revised or re-issued from time to time,

**"Schedule 1 development"** means development of a description set out in Schedule 1 and related terms shall be construed accordingly,

**"Schedule 2 development"** means development of a description set out in Schedule 2 and related terms shall be construed accordingly,

**"Scoping Opinion"** shall be construed in accordance with section 7 and, for the avoidance of doubt, shall include any amendment thereto made pursuant to section 9(5),

**"Screening Opinion"** means a written statement of the opinion of the [Authority] as to whether or not development is EIA development,

**"Section 40(5) or 44(3) development"** means development of a description set out in section 40(5) or 44(3) of the Law in relation to which the [Authority] is satisfied that it must have regard to the matters set out in section 40(5) or 44(3) of the Law, respectively and related terms shall be construed accordingly,

**"site of special significance"** means an area which is identified in a Plan or Local Planning Brief as having special significance (whether because of archaeological, botanical, geological, scientific, cultural, zoological or any other interest) and which it is desirable to preserve, enhance or manage by the application of the special provisions in Chapter 4 of Part IV of the Law,

**"States development"** shall be construed in accordance with section 2(1)(b),

**"Subject Plan"** means a current adopted plan prepared pursuant to sections 9 and 11 of the Law including any current adopted amendment thereto,

**"subordinate legislation"** means any regulation, rule, order, notice, rule of court, resolution, scheme, warrant, byelaw or other instrument made under any enactment and having legislative effect,

**"under the Law"** includes provisions made under the Law,

**"waste"** includes –

- (a) scrap material, effluent or other unwanted surplus arising from any process, and
- (b) anything which requires to be disposed of as being broken, worn out, contaminated, spoiled or redundant,

and other terms used in this Ordinance which are not defined in it but are defined in the Law shall have the same meaning as in the Law.

(2) Any reference in this Ordinance to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

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## NOTES

*In section 13, the words, first, "Authority" and, second, "Development & Planning Authority" in square brackets in the definition of the expression "Authority" and, third, the word "Authority" in square brackets wherever else occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, respectively section 5(1), Schedule 3, paragraph 8, section 2, Schedule 1, paragraph 4(b), Schedule 2, Part 3 and section 5(1), Schedule 3, paragraph 8, with effect from 1st May, 2016.*

*The functions, rights and liabilities of the Environment Department and of its Minister or Deputy Minister arising under or by virtue of this Ordinance were transferred to and vested in, respectively, the Development & Planning Authority and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 4(b), Schedule 2, Part 3, with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.*

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**Citation.**

**14.** This Ordinance may be cited as the Land Planning and Development (Environmental Impact Assessment) Ordinance, 2007.

**Commencement.**

**15.** This Ordinance shall come into force on the same date as the Law.

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**NOTE**

*The Law was brought into force on 6th April, 2009 by the Land Planning and Development (Fees and Commencement) Ordinance, 2008, section 15.*

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SCHEDULE 1                      Sections 2(1)(a) and 13,  
Schedule 2, items (a), (d) and (j)  
DEVELOPMENT REQUIRING AN EIA

The carrying out of development comprising or providing any of the following –

- (a) a site for the disposal or processing of waste, including landfill sites, sites for the disposal of hazardous waste, for waste incineration or for the production of energy from waste, but, for the avoidance of doubt, excluding a small scale facility for the recycling or sorting of waste,
- (b) reservoirs for public water supply, waste water plants or sewage treatment plants,
- (c) sludge deposition sites,
- (d) quarries or the extraction of minerals by quarrying, mining or drilling,
- (e) extraction of minerals by marine dredging,
- (f) reclamation of land from the sea,
- (g) non-domestic installations for the production of energy, including, without limitation, installations for marine power generation and for the harnessing of wind power, but excluding installations for the harnessing of wind power where the development involves the installation of no more than 1 turbine,
- (h) water management projects for agriculture, including irrigation, land drainage projects and the construction of reservoirs for agricultural purposes,

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- (i) storage of metals or vehicles for scrap,
- (j) golf courses, and
- (k) airport runways.

SCHEDULE 2      Sections 2(1)(c)(i) and 13(1)  
DEVELOPMENT REQUIRING A SCREENING OPINION AS TO WHETHER  
OR NOT AN EIA IS REQUIRED

The carrying out of development comprising or providing any of the following –

- (a) any development project, not falling within Schedule 1, including any business parks or industrial estates or retail or leisure development, where the area of the development exceeds 1 hectare,
- (b) construction of roads, harbours and port installations,
- (c) works to provide new coastal and sea defences and reconstruct existing defences,
- (d) any infrastructure project, not falling within Schedule 1 or any other item of this Schedule, which is of island-wide significance,
- (e) any project on, or which may affect, a Ramsar site,
- (f) waste management projects for agriculture,
- (g) installations for the slaughter of animals,
- (h) installations for the storage of natural gas with a capacity of more than 1000 kilogrammes,
- (i) installations for the storage of petroleum, petrochemicals or other hazardous chemicals with a capacity of more than 10,000 litres, and
- (j) any change or extension to any development of a description set out in –

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- (i) Schedule 1, or
- (ii) paragraphs (a) to (i) of this Schedule,

where planning permission has already been given for that development or that development has already been carried out or is being carried out, and the change or extension may have significant adverse effects on the environment.

SCHEDULE 3  
SCOPING OPINIONS

Section 9(3) and (6)

The matters that a Scoping Opinion must include if relevant to the development in question are –

- (a) a summary of any relevant policies in a Plan or Local Planning Brief,
- (b) a description of the sensitivity of the environment on the development site and on land adjoining or adjacent to that site,
- (c) a description of any information which is readily available relating to the environmental impact of the development and a statement as to the reliability and adequacy of that information,
- (d) a list of the principal emissions which are likely to arise,
- (e) the main matters that should be addressed in the EIA,
- (f) an outline of the proposed methodology for collecting information, assessing environmental impacts and identifying ways of mitigating the effects of those impacts on the environment, and
- (g) a summary of the advice received or comments made to the [Authority] pursuant to section 9(2).

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**NOTE**

*In Schedule 3, the word in square brackets was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 8, with effect from 1st May, 2016.*

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SCHEDULE 4                      Sections 3(1) and 6(5)  
SCREENING OPINIONS–SCHEDULE 2 OR SECTION 40(5) OR 44(3)  
DEVELOPMENT

The matters which the [Authority] shall in particular, consider, are –

- (a) the characteristics of the development and, in particular –
  - (i) its size,
  - (ii) any reasonably foreseeable cumulative environmental effects of the development and of any other activity having an effect in the same area as the development,
  - (iii) its likely use of natural resources and production of waste,
  - (iv) the likely pollution and nuisances arising from the development, and
  - (v) the risk of accidents, having regard in particular to the substances or technologies used,
- (b) the development site and, in particular –
  - (i) the existing use and existing environmental condition of the development site,
  - (ii) the abundance, quality and regenerative capacity of natural resources on the development site and on land adjoining or adjacent to it, and

*Consolidated text*

- (iii) the potential vulnerability of any area of land adjoining or adjacent to the development to environmental impacts, and in considering such vulnerability the [Authority] shall in particular consider –
  - (A) the presence of any coastal areas, Ramsar sites or other wetlands, sites of special significance, nature reserves, parks or other landscapes of historical, cultural or archaeological significance situated in that area, and
  - (B) the density of the human population on the development site and on land adjacent or adjoining it,
- (c) the characteristics of the potential environmental impact of the development and, in particular –
  - (i) the extent of that impact both in terms of the area and human population affected,
  - (ii) the scale and complexity of the impact,
  - (iii) the likelihood of any adverse impact occurring, and
  - (iv) the duration, frequency and reversibility of the impact.

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**NOTE**

*In Schedule 4, the word "Authority" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 8, with effect from 1st May, 2016.*

*Consolidated text*

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ENVIRONMENTAL STATEMENTS IN RELATION TO EIA DEVELOPMENT

1. An Environmental Statement must include the following matters –
  - (a) a description of the development comprising information on the development site and the design, size and nature of the development,
  - (b) the data required to identify and assess the main effects which the development is likely to have on the environment,
  - (c) an outline of the main alternatives considered by the applicant or the person minded to carry out the development to the development selected including –
    - (i) where relevant in relation to certain aspects of the development, the option of not carrying out certain parts of the development, and
    - (ii) an indication of the main reasons for the choice of the development selected taking into account the environmental effects of those alternatives, and
  - (d) an assessment of the likely significant environmental effects of the development including an assessment of any matters, where relevant, which the Scoping Opinion specifies must be addressed in the EIA and such an assessment must –
    - (i) specify the methodology used in carrying out that assessment,
    - (ii) specify the criteria used for assessing

*Consolidated text*

environmental effects,

- (iii) include a suitable and sufficient assessment of the main significant effects which the development is likely to have on the environment including effects on population, fauna, flora, soil, water, air, climatic factors, material assets (including the architectural and archaeological heritage) and landscape,
  - (iv) specify how it is intended to remedy or mitigate and manage the likely significant adverse effects on the environment and to enhance any likely significant beneficial effects on the environment,
  - (v) specify the likely residual effects on the environment after the likely significant adverse effects are mitigated and managed as set out in sub-item (iv), and
  - (vi) specify how the effects on the environment arising from the development are to be monitored when and after the development is carried out,
- (e) a description of any difficulties encountered by the applicant, or person minded to carry out the development, in compiling the information required to prepare the Environmental Statement and in particular any difficulties arising from technical deficiencies or lack of relevant knowledge,
- (f) a glossary of terms used in the Environmental Statement,

*Consolidated text*

- (g) figures illustrating the material set out in the Environmental Statement,
- (h) the following appendices –
  - (i) any studies carried out to enable the Environmental Statement to be compiled, and
  - (ii) a copy of the relevant Scoping Opinion, and
- (i) a non-technical summary of the matters set out in this paragraph.

2. An Environmental Statement must also include such of the following matters as is reasonably required to enable the [Authority] to assess the environmental impact of the development –

- (a) a summary of any relevant policies in a Plan or Local Planning Brief,
- (b) a summary of the planning history of the development site insofar as it is relevant to the effects of the development on the environment.

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**NOTE**

*In Schedule 5, the word in square brackets was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 8, with effect from 1st May, 2016.*

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SCHEDULE 6

Section 13(1)

ENVIRONMENTAL STATEMENTS IN RELATION TO POLICIES IN A PLAN  
OR LOCAL PLANNING BRIEF

1. Subject to section 3(3), an Environmental Statement must include the following matters –

- (a) the category of EIA development referred to in the policy by reason of which EIA is required and concise details, in broad terms, of any existing or potential proposals for development within that category,
- (b) where more specific details of the type of development are known, a concise summary of such details in relation to existing proposals for development falling within item (a),
- (c) an assessment of the likely significant environmental effects, including effects on population, fauna, flora, soil, water, air, climatic factors, material assets (including architectural and archaeological heritage) and landscape, of any development identified under item (b) or, if no such development is identified, of a typical development of the type envisaged in the policy,
- (d) the reasons for the choice of policy and the implications of that choice for the environment and of any alternative policy approach including the option of not having a policy of the kind envisaged,
- (e) matters that should, having regard to the relevant requirements of this Ordinance, be included in an Environmental Statement or any Compliance Document, relating to the category of EIA development referred to in the policy, and

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- (f) a non-technical summary of the matters set out in this paragraph.

2. Subject to section 3(3), an Environmental Statement must also include such of the following matters as the [Authority] considers is reasonably required to enable it to assess the environmental impact of the policy –

- (a) details of any information which is readily available concerning any proposals for development falling within paragraph 1(a) or, if no such development is identified, of a typical development of the type envisaged in the policy,
- (b) the [Authority]'s view as to the adequacy and reliability of any readily or publicly available information concerning the environmental effects assessed pursuant to paragraph 1(c),
- (c) any assumptions that have been made relating to the nature and scale of the development or the likely significant environmental effects in complying with paragraph 1(d),
- (d) any relevant –
  - (i) national or international standards or guidance, or
  - (ii) requirements under applicable legislation,setting out limits for particular environmental impacts for the type of development in question and any criteria adopted for the mitigation of such impacts, and
- (e) any criteria adopted for identifying any areas of search

or for selecting any site for the type of development in question.

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**NOTE**

*In Schedule 6, the word "Authority" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 8, with effect from 1st May, 2016.*

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