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SEA Regulations 549.61: An Overview

The SEA Focal Point has prepared this document with a view to assist Responsible Authorities in fulfilling their duties and responsibilities without prejudice to the provisions of the SEA Regulations. More specifically the note outlines

- The definition of Responsible Authority and an overview of its duties
- The SEA process including support by Designated Authorities
- The consultative process and subsequent assessments
- Screening and Communication.

Defining the Responsible Authority (RA)

The SEA regulations define a 'responsible authority', in relation to a Plan or Programme (PP), as the authority that is responsible for the preparation of a PP, or on whose behalf a PP is prepared. RAs are invited to refer to Part I of the said regulations for a better understanding of the various identified stakeholders and related definitions.

Understanding the RA' s Duties

It is important to understand that the RA remains responsible for conducting all stages of the SEA process including the screening phase, the scoping phase, the preparation of the environmental report, the carrying out of consultations, the taking into account of the environmental report and the results of consultations in decision making, and the provision of information on the decision in accordance with Regulations 5 to 10.

Appreciating the SEA process

The spirit of SEA is to promote the environment and sustainable development. RAs are encouraged to approach and appreciate the SEA process as a tool to provide a high level of environmental protection and integrate environmental considerations. This could in turn contribute to eliminate or mitigate significant effects on the environment during the preparation and adoption of PPs with a view to promoting sustainable development. In other words, SEA is designed to guide the PP development process from the start and follow through to the end of its implementation, incorporating relevant findings from any studies and consultations, and also monitoring to ensure its objectives are met.

RAs should familiarize themselves with Regulations 4 (1) to 4(9) to better understand the scope and applicability of these regulations to PPs, and recall that the 'Screening Template' (available on the SEA FP website) should be used by the RA during the screening process to determine whether an SEA is required. Furthermore, if through the screening process, the RA determines that an SEA is required (after conducting the necessary consultations with Designated Authorities and informing



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the SEA Focal Point (SEA FP), as the Competent Authority (CA), of the conclusions of the screening process through the submission of the duly completed Screening Template), the RA should follow Regulations 5 to 10 outlining the general conditions on how an SEA should be conducted. The SEA process should be carried out during the preparation of the PP and before its adoption or submission to the legislative procedure.

Provision of support by the DAs

The SEA Regulations identify in Regulation 7(3) a number of Designated Authorities (DAs) that are to be consulted by the RA during the SEA process including the Screening Process, the Scoping Process, the development of the draft Plan or Programme (PP), and the Environmental Report. The DAs can provide valuable guidance on the integration of environmental protection in PPs and should be seen by the RA as supporting partners that can assist them in the SEA process.

Consultations

Regulation 7(3) identifies as DAs five competent authorities as well as any other authority which is deemed by the RA to have an input into the SEA process. Therefore, while consultations with the defined five must be carried out, the RA should endeavour to consult other authorities which have an interest and deemed to have an input in the SEA process. Timely consulting has an important bearing on the conduct of the process. Early consultations provide an effective opportunity for the RA and the DAs to discuss the possibility of addressing the environmental impacts of the Plan or Programme (PP). Consultations at an early stage of the process contribute for more comprehensive PPs that are environmentally considerate and sustainable in the long-term. Thus the SEA screening of the PP should be carried out ahead of the publication of the draft PP as this fosters a better understanding of the nature of the PP in the context of SEA.

The SEA should be carried in tandem with the plan-making process in a concurrent fashion and by involving the DAs. Efforts should be made to offer all DAs the opportunity to comment, particularly as they carry the technical understanding that makes PPs environmentally comprehensive. The timeframe for consultation should be appropriate to enable meaningful technical assessment at all SEA stages. In addition, the RA should engage with DAs throughout the plan-making process to ensure that the environmental impacts of the PP are identified and addressed from the start. This ensures that any problematic issues are identified early in the process in a more efficient and effective manner. RAs are reminded to consult with DAs listed in Regulation 7(3) during the Screening Process and, to the extent appropriate, provide opportunities for participation of the public in line with Article 5(3) of Schedule III to the Regulations. This also means that screening process of the PP should be carried out way before the publication of the draft PP and the Environment Report as this fosters a better understanding of the nature of the PP in the context of SEA.

It is recommended that when commencing the scoping stage, the RA consults with relevant authorities on the scope and level of detail of the information which is to be included in the Environmental Report. In addition, it is recommended that consultation with the DAs and the public (Regulations 7(1) to 7(5) on the Environmental Report and the draft PP is carried out simultaneously as this would provide for a better understanding of the relationship between the two documents



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Assessment procedures

RAs should provide complete and adequate information to enable the DAs to meaningfully comment at each phase. PPs should contain the necessary level of detail to allow a thorough and meaningful assessment of their likely significant environmental impacts by the DAs. On the other hand, RAs should give proper consideration to comments from DAs on the draft PP and its environmental impacts as these may bring to the fore particular and area-specific issues pertinent to the PP. This proper and in-depth consideration of comments from an early stage contributes to the avoidance of more severe environmental problems of a strategic and/or cumulative nature that are harder to be effectively addressed at project-level even through the EIA process.

RAs should also strive to integrate environmental safeguards in their PPs so as to avoid or mitigate environmental impacts. In addition, the complex and interconnected nature of potential environmental effects must also be fully identified, properly assessed and considered in a holistic rather than fragmented manner. This is particularly important due to Malta's small size as well as the importance and vulnerability of its environmental assets.

Alternatives and Monitoring

When preparing the Environmental Report, in accordance with Regulations 6 and Schedule I to the Regulations, RAs are required to properly identify the likely significant effects on the environment and evaluate suitable options and alternatives to ensure that the least environmentally damaging options are selected in the PP. Additionally, approved PPs must subsequently be properly monitored by RAs during the implementation phase. Monitoring is especially useful not only to ensure that the intended aims of the PP are reached but also as a means for the provision of feedback into the revision or modification of the PP.

Divergencies from and modification of approved PPs

Divergences from the approved PPs and modification of PPs need to be reconsidered in the light of the SEA process. This could take the form of a project or other element which was not originally envisaged in the PP (and original SEA). Consequently, the approved PPs may need to be amended and subjected to an SEA procedure as relevant, including consultation and liaison with DAs.

Capacity Building

Potential RAs are encouraged to build their capacity in relation to the SEA process. This should contribute towards the RA's capacity to consider its PPs within the context provided by the SEA Regulations and to better understand their obligations under the Regulations. Better understanding of the SEA process also contributes towards meaningful dialogue with DAs that enriches and adds value to the PPs in terms of sustainability. RAs are therefore encouraged to strengthen their capacity in order to improve not just the implementation of SEA, but their own PPs.

Screening and Communication with the CA

In cases where screening concludes that an SEA is not required, the RA shall inform the CA as to why an SEA is not being undertaken on a particular PP through the submission of the duly completed



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screening template. It is to be noted that, in such cases the CA may ask for further information and ultimately indicate to the RA whether in fact the PP requires an SEA.

Conversely, when the RA concludes that an SEA is necessary, the RA should inform the SEA Focal Point accordingly through the submission of the screening template. Following that, the RA is invited to inform the SEA FP on the commencement of the SEA process. The RA should subsequently keep the CA informed on the conduction and completion of all stages of the SEA process.

Conclusion

These notes are being circulated to assist RAs in their duties and responsibilities without prejudice to the provisions of the SEA Regulations. Thus, RAs are invited to always follow the said regulations for screening purposes and when embarking on an SEA. Furthermore, when necessary, RAs are encouraged to approach the SEA FP by sending an email on sea_focal_point@gov.mt.