

ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014

ARRANGEMENT OF REGULATIONS

Regulation

PART I - PRELIMINARY PROVISIONS

1. Citation
2. Interpretation
3. Application of these Regulations
4. Projects requiring Environmental Impact Assessment
5. Existing Projects
6. Stop Notice
7. Cost of Environmental Impact Assessment
8. Responsibilities

PART II - ENVIRONMENTAL IMPACT ASSESSMENT PROCEDURE

9. Screening procedure
10. Screening report
11. Grant of environmental approval
12. Fees pertaining to the environmental impact assessment process
13. Additional information
14. Scoping and formulation of terms of reference for environmental impact study
15. Scoping and approval of persons to conduct the environmental impact study
16. Public participation in the environmental impact study

PART III - ENVIRONMENTAL IMPACT STATEMENT

17. Environmental Impact Statement (EIS)
18. Content of an Environmental Impact Statement

PART IV- REVIEW OF THE ENVIRONMENTAL IMPACT STATEMENT

19. Submission of the Environmental Impact Statement
20. Invitation of comments from the general public
21. Review of comments from the general public
22. Determination to make a decision or hold a general public hearing
23. General Public hearing
24. Persons eligible to make presentations at public hearings

PART V – DECISION OF THE EXECUTIVE DIRECTOR ON ENVIRONMENTAL IMPACT STATEMENTS

25. Basis of decision
26. Decision of the Executive Director
27. Conditions of approval of a project
28. Reasons for denial
29. Cancellation of environmental approval

PART VI –MONITORING AND ENVIRONMENTAL AUDITS

30. Self-audit
31. Audit by the Agency
32. Mitigation measures

PART VI I –MISCELLANEOUS PROVISIONS

PART VI I –MISCELLANEOUS PROVISIONS

33. Environmental impact assessment of policies and Programmes
34. Effect of approval or rejection of a proposed project
35. Offences
36. Appeals
37. Delegation of powers and functions

SCHEDULES

**NATIONAL ENVIRONMENTAL MANAGEMENT ACT,
Cap. 72.01 Laws of The Gambia, 2009.**

**ENVIRONMENTAL IMPACT ASSESSMENT
REGULATIONS, 2014**

IN EXERCISE of the powers conferred on the National Environment Management Council by section 63(1) of the National Environment Management Act, these Regulations are hereby made.

PART I - PRELIMINARY PROVISIONS

1. Citation

These Regulations may be cited as the Environmental Impact Assessment Regulations, 2014.

2. Interpretation

(1) In these Regulations, unless the context otherwise requires-

“Act” means the National Environment Management Act;
[Cap. 72.01]

“Affected party” means, in respect of an Environmental Impact Assessment, any person or body having an interest in the outcome of the assessment for a purpose that is neither frivolous nor vexatious, and or is likely to be affected by a proposed project;

“Agency” means the National Environment Agency;

“Company” includes a corporation;

“Council” means the National Environmental Management Council;

“Developer”, in respect of a project, means the person, body, or Government authority that proposes the project;

“Environment Impact” in respect of a project, means-

- (a) any change that the project may cause in the environment, including the effect of such change on health and socio- economic conditions, on physical and cultural heritage, on the current use of lands and resources for traditional purposes, or any structure, site or thing that is of

historical, archaeological, paleontological or architectural significance, and

- (b) any change to the project that may be caused by the environment, whether such change occurs within or outside The Gambia

“Environmental Approval” means a decision made by the Agency that a proposed project complying with the conditions and mitigating measures where required, does not have adverse environmental impacts.

“Environmental Impact Assessment” in respect of a project, means the process of screening, scoping, environmental impact study, review, decision making and monitoring, an assessment of the environmental effects of the project that is conducted in accordance with the Act and these Regulations;

“Environmental Impact Study” means a systematic study conducted on the expected environmental impact of a proposed project in accordance with the provisions of regulation 7 of these Regulations;

“Environmental Impact Statement (the statement)” means the report, which presents the results of an environmental impact study;

“Environmental Impact Statement Review” means the review of the draft Environmental Impact Statement by the Agency in accordance with the provision of Part 4 of these Regulations;

“EIA Working Group” means the Working Group established in accordance with the provisions of section 16 of the Act;

“Lead Department” in relation to a project, means a Government office that is required pursuant to regulation 8 (3) to ensure that an environmental assessment of the project is conducted;

“Mediator” means third party who mediates between a developer and the National Environment Agency concerning the issuance or otherwise an Environmental Impact Assessment approval during a public hearing.

“Mitigation” in respect of a project, means the elimination, reduction or control of the adverse environmental effects of the project, and includes restitution for any damage to the environment caused by such effects through replacement, restoration, compensation or any other means;

“Monitoring or audit” means a programme for-

- (a) verifying the accuracy of the environmental impact assessment of a project, and
- (b) determining the effectiveness of any measure taken to mitigate the adverse environmental impacts of the project;

“Project” in relation to a physical work, means any proposed construction, operation, modification, decommissioning, abandonment or other undertaking in relation to that physical work, or any proposed physical activity not relating to a physical work that is prescribed or is within a class of physical activities that is prescribed pursuant to regulations made under paragraph 59(b)???

“Record” includes any correspondence, memorandum, book, plan, map, drawing, diagram, pictorial or graphic work, photograph, film, microform, sound recording, videotape, machine readable record, and other documentary material, regardless of physical form or characteristic, and any copy thereof;

“Screening” means an environmental impact assessment that is conducted pursuant to section 22 and that includes a consideration of the factors set out in section 22(1);

“Screening procedure” means the procedure according to Part II of these Regulations.

“Screening report” means a report that summarizes the results of a screening;

“Sustainable development” means development that meets the needs of the present, without compromising the ability of future generations to meet their own needs;

(2) For the purposes of these regulations, a company is controlled by another company if, securities of the company to which are attached more than fifty percent of the votes that may be cast to elect directors of the company are held, other than by way of security only, by or for the benefit of that other company; and the votes attached to those securities are sufficient, if exercised, to elect a majority of the Directors of the company.

3. Application of these Regulations

(1) These regulations shall apply-

- (a) to all projects included in Schedule A to the Act; and
 - (b) to any major repairs, extensions, alterations or non-routine maintenance or any existing project which is included in schedule A to the Act.
- (2) No developer shall implement a project for which environmental approval is required under the Act and under these regulations unless the environmental impact assessment has been concluded in accordance with these regulations.
- (3) Except as provided for in the Act and these regulations, the licensing authority under any law in force in The Gambia, shall require the production of a certificate of environmental approval before issuing a license for any project identified in accordance with sub- regulation (1) of this regulation.
- (4) An environmental inspector may at all reasonable times, enter on any land, premises, or other facilities to determine whether a project has complied with the requirements for environmental impact assessment under the Act.

4. Projects requiring Environmental Impact Assessment

(1) An Environmental Impact Assessment is required of projects listed in Part A of the Schedule to the Act.

(2) Notwithstanding regulation 3, an Environmental Impact Assessment of a project is not required where –

- (a) the project is not listed in Part A the Schedule to the Act; or

the project is, in the opinion Of the Agency, to be carried out in response to an emergency and that the carrying out of the project forthwith is in the interest of public health or safety.

5. Existing Projects

Where the Agency considers that any project in existence on the date of coming into force of the regulations has or is likely to have significant impact on the environment, the Agency shall issue a written notice to the developer to seek environmental approval in respect of the project within thirty days of the issuance of that notice.

6. Stop Notice

(1) Notwithstanding sub-regulation (2) of regulation 4 of these Regulations, a developer who commences implementing a project for

which environmental impact assessment is required under the Act contrary to these regulations, shall be served with a stop notice requiring the immediate closure and evacuation of the project premises and facilities by the developer and all employed therein.

(2) A developer who fails to seek environmental approval as specified in the written notice under regulation 5, shall be served with a stop notice requiring the immediate closure and evacuation of the project premises and facilities by the developer and all employed therein.

7. Cost of Environmental Impact Assessment

(1) The application and processing fee, the study and cost of consulting the public and providing documents required during the study, review and any other stage of the Environmental Impact Assessment process, including monitoring and audit, shall be borne by the developer.

(2) The Agency may at the expense of the developer, carry out studies that are outside of its public service role to complement the study, or generate information and data.

8. Responsibilities

(1) The Agency shall co-ordinate, administer and supervise the Environment Impact Assessment process and in particular-

- (a) carry out the screening for the classification of proposed project;
- (b) decide on the appropriate means of public information and participation;
- (c) co-ordinate public hearings where required;
- (d) grant environmental approval or reject project;
- (e) carry out periodic audits of approved project; and advise the developer on remedial measures in cases of non-compliance with previously determined measures;
- (f) appoint a mediator where a public hearing on a proposed project is required.

(2) The responsibilities of the working group shall include-

- (a) serving as the leading advisory body for Environmental Impact Assessment in The Gambia;

- (b) participate in scoping appointments and preparation of terms of reference for environmental impact studies; and as part of the scoping process, the working group may, where appropriate visit the site or sites identifies by the developer and or any other alternative site or sites it deems suitable;
- (c) review draft statements and the comments of the public thereon submitted to it by the Executive Director, and make comments thereon; and
- (d) make recommendations to the Executive Director, after studying the draft statement and related comments, for action.

(3) The Lead Department shall co-operate with the Agency in the Environment Impact Assessment process and shall in particular be responsible to-

- (a) inform a developer on the requirement for an Environmental Impact Assessment to be conducted;
- (b) guide the developer on providing the appropriate information for the execution of the screening process; and
- (c) refuse permission for the carrying out of any project prior to the granting of environmental approval through the Agency.

(4) The developer shall-

- (a) provide the appropriate information as is required for the initial screening of the proposed project;
- (b) attend the scoping meeting;
- (c) select qualified consultants to conduct the environmental impact study;
- (d) provide documents for official and public scrutiny;
- (e) provide, at any stage of the project, for early public information according to the advice of the Agency on the appropriate means;
- (f) take the required arrangement for public consultation; and
- (g) conduct periodic environmental auditing to ensure compliance with the conditions for environmental approval.

(5) The Council shall be responsible for dispute resolution throughout the Environmental Impact Assessment process as provided for below-

- (a) the initial classification of a project during screening;
- (b) the final definition of terms of reference for the conducting of an Environmental Impact study;
- (c) the appointment of a mediator where a public hearing is required; and
- (d) the final decision on the approval or the rejection of a project

PART II - ENVIRONMENTAL IMPACT ASSESSMENT PROCEDURE

9. Screening procedure

(1) The Agency shall, on receipt of an application for environmental approval and any other relevant information required screen the proposed project.

(2) The Agency shall issue the developer with a screening form under Schedule A of these regulations to complete and return to the Agency.

(3) Only one screening form must be used per project by the developer.

(4) The developer shall submit the completed forms together with any other required documentation, to the Agency for screening.

(5) The Agency shall submit the project taking into consideration the requirements of sub- section (1) of section 22 of the Act.

10. Screening report

(1) After screening under regulation 9, the Agency shall issue a screening report and shall state in the report whether the proposed project-

- (a) requires the submission of an environmental impact statement;
- (b) requires the submission of additional information;
- (c) is approved; or
- (d) is rejected.

(2) The Agency shall give reasons to the developer and Lead Department, for its decision on the classification of a project within fourteen days of making the classification.

11. Grant of environmental approval

(1) Where the Agency approves a project at this stage, it shall issue the developer in respect of the project, an environmental approval.

(2) Where the Agency at this stage reports that it rejects the project, the report shall constitute a non- acceptance of the project and the project shall not be commenced or where it is in existence, be discontinued until further notice.

(3) A determination by the Agency that a project is approved at this stage, rejected, or required the submission of additional information or the submission of an environmental impact statement, shall be communicated to the developer within twenty working days from the date of the receipt of the screening form under regulation 10 of these regulations.

12. Fees pertaining to the environmental impact assessment process

(1) There shall be paid in respect of each application for consideration of a proposal for an environmental impact assessment, a fee of one thousand dalasis as cost of the screening form and the following amounts as processing fees after the screening of the project proposal-

- (a) twenty five thousand dalasis for Class 'A' projects;
- (b) ten thousand dalasis for Class 'B' projects;
- (c) five thousand dalasis for Class 'C' projects; and
- (d) one thousand dalasis where a proposal is non-profit, community-based and classified as 'C'.

(2) For the purpose of granting environmental approval regardless of the class of the project as in (1) above, the fee for the environmental approval shall be 1% of the development cost of the proposed project.

(3) For projects classified as 'A' and 'B' the environmental approval shall be renewed annually at a fee equivalent to 5,000 and 3,000 dalasis respectively of their processing fee in sub-regulation (1)

above; and Class 'C' and community development base projects shall pay a flat fee of 2,000 and 500 dalasis for annual renewal of their environmental approval.

(4) The Agency shall publish in the Gazette and the mass media and in such form as the Executive Director shall determine, notice of every environmental approval issued by him or her within three months of the date of issue of the permit.

(5) The agency through the Admin and Finance Committee when and where necessary would warrant the revision of the charges to reflect the prevailing circumstances.

13. Additional information

(1) Where the Agency upon consideration of a screening Form decides that there is need for additional information to be submitted by the developer seeking environmental approval, the Agency shall request the developer in writing to submit the additional information in the form of a preliminary environmental impact assessment report or an environmental management plan, as appropriate.

(2) A preliminary environmental impact assessment report submitted under sub-regulation (1) of this regulation shall contain details other than information provided in or with the screening form submitted under regulation 9 of these regulations.

(3) An environmental management plan submitted under these regulations shall contain information in a format prescribed by the Agency.

(4) Where the Agency after consideration of the additional information requested under sub-regulation (1), approves the additional information, it shall issue in respect of the project an environmental approval.

(5) Where the Agency, upon receipt of the additional information requested under sub-regulation (1) of this regulation is satisfied that a significant adverse environmental impact is likely to result from the activities of the proposed project, the developer shall be asked to carry out an environmental impact study on the project in order that the environmental impact of the project can be assessed, and upon its completion submit an environmental impact statement.

14. Scoping and formulation of terms of reference for environmental impact study

(1) An environmental impact study shall be conducted in accordance with the terms of reference contained in a scoping report issued by the Agency following scoping meeting.

(2) A scoping report shall spell out the scope or extent of the environmental impact study to be carried out by the developer, and shall include a draft terms of reference, which shall indicate the essential issues to be addressed in the environmental impact statement.

(3) The term of reference shall stipulate all matters required to be included in the environmental impact statement provided for in section 23 of the Act including the expertise of the persons to conduct the environmental impact study and any such matters as the Agency may require in writing.

15. Scoping and approval of persons to conduct the environmental impact study

(1) The developer shall on the approval of the terms of reference under regulation 14, submit to the Agency the names and qualifications of the persons who shall undertake the study.

(2) The Agency may approve or reject the name of any person submitted under sub-regulation (1) of this regulation and require that another name be submitted within the period specified by the Executive Director in writing.

(3) The persons undertaking the study shall conduct themselves in accordance with the Environment Impact Assessment Guidelines, code of conduct or the written direction issued by the Agency.

(4) The Environment Impact Assessment code of conduct established under sub-regulation (3) of this regulation shall be published in the Gazette.

16. Public participation in the environmental impact study

(1) The developer shall take all measures necessary to seek the views and opinions of the people in the community which may be affected most by the project, and those of any other affected and interested parties during the process of conducting the study under these regulations.

(2) In seeking the views and opinions of the people under sub-regulation (1), the developer shall-

- (a) hold meeting with the affected communities and parties to explain the project and its effects;
- (b) ensure that the venues and times of the meetings shall be convenient to the affected persons and shall be agreed with the leaders of the communities;
- (c) transcribe the proceedings of the meetings and attach it as an annex to the environmental impact statement.

PART III - ENVIRONMENTAL IMPACT STATEMENT

17. Environmental Impact Statement (EIS)

(1) Where the Agency has, under sub-regulation 5 of regulation 13 determined that an environmental impact study be made under these regulations, the developer shall make an environmental impact statement on completing the study.

(2) In making an environmental impact statement, the developer shall pay attention to the issues laid down in Schedule A of the Act.

18. Content of an Environmental Impact Statement

(1) Without prejudice to the generality of the terms of reference specified under sub-regulation (3) of regulation 14 of these regulation, and the requirements of section 23(3) of the National Environmental Management Act, an environmental impact statement shall contain-

- (a) an executive summary which shall adequately and accurately summarise the statement, stressing the major conclusions, areas of controversy and the issues to be resolved, including the choice among alternatives;
- (b) a comparative description of the project and the alternatives that were considered thus sharply defining the issue and provide a clear basis for the choice of options by decision makers and the public. The alternative of no action shall also be considered;
- (c) a description of the site and reasons for rejecting alternatives sites;

(d) the material inputs into the project;

- (e) a description of the potentially affected environment or environments created by the alternatives under consideration, thereby taking into account the built and the natural environment as well as the relevant social and cultural setting. The depth and the extent of the descriptions shall be adjusted to the dimension of the effects of the alternatives that are being considered;
- (f) the purpose and the expected benefits of the project including a socio-economics analysis;
- (g) a description of project impacts, including the temporary or long-term, direct and indirect impacts of a project, both positive and negative, thereby taking into account environmental effects of malfunctions or accidents that may occur in connection with the project as well as any commutative environmental impacts that are likely to result from the interaction with other project activities that have been or will be carried out;
- (h) a description of alternative means of carrying out the proposed project that are technically and economically feasible; or alternatives sites that are considered and the environmental effects of any such alternative approach;
- (i) an assessment of the legal implications of the impacts, making reference to the relevant national and or international laws, treaties and conventions, national or international standards. The statement shall also consider whether the environment of any other state or areas beyond the limits of national jurisdiction are likely to be affected by the project or the mitigating measure;
- (j) a description of methodology applied;
- (k) an evaluation of impacts, thereby taking into account possible conflicts between the proposed project and the relevant legal framework, national, regional or local development plans, policies, programmes and control mechanisms for the area concerned;
- (l) measures proposed for eliminating, minimizing, containing, compensating for or mitigating adverse impacts;
- (m) an indication of gaps in knowledge and uncertainties which were encountered in compiling the required information;

- (n) an indication of whether the environment of any other state is likely to be affected and the available alternatives and mitigating measures;
- (o) a description of how the information provided for in this regulation has been generated; (p) such other matters as the Executive Director may consider necessary.

PART IV- REVIEW OF THE ENVIRONMENTAL IMPACT STATEMENT

19. Submission of the Environmental Impact Statement

(1) The developer shall submit three copies of the draft environmental impact statement to the Agency for initial internal review to ascertain whether it is suitable for wider public review.

(2) The Agency shall review the draft environmental impact statement and provide the developer with written comments within fourteen days of its receipt.

(3) If after review of the draft environmental impact statement the Agency is satisfied that it is complete, the developer shall be notified in writing.

(4) Where the Environmental Impact Statement is found to be inadequate, the Agency shall return it to the developer for revision, taking into consideration the comments and objections of the Executive Director.

20. Invitation of comments from the general public

(1) The developer shall within ten working days of receiving the notification under sub-regulation (2) of regulation 16 invite the general public to make written comments on the draft environmental impact statement.

(2) The invitation to the general public to make written comments shall be made in a newspaper and a radio station having a national circulation and coverage respectively and shall be exhibited in the newspaper or broadcast on the for such a period as the Agency considers necessary.

(3) The invitation under sub-regulation (2) shall state-

- (a) the nature of the project;
- (b) the location of the project;

- (c) the anticipated negative and positive impacts of the project;
- (d) the proposed mitigation measures to respond to the negative impacts; and
- (e) the review period and centres.

21. Review of comments from the general public

(1) The Agency shall within ten working days of receiving the comments of the public under regulation 20 (1) send copies of the draft environmental impact statement and the comments made thereon by the general public to each member of the Environmental Impact Assessment working group for them to review and comment on.

(2) The Environmental Impact Assessment working group shall carry out its duties in accordance with guidelines issued by the Agency.

(3) The Environmental Impact Assessment Working Group shall convene within fourteen working days of receiving the draft statement and all the comments received under sub-regulation (1) of the regulation and make a decision under regulation 22 or determine whether a general public hearing be held under regulation 21.

22. Determination to make a decision or hold a general public hearing

(1) On the written request of the Agency, the Council shall hold a general public hearing on the environment impact statement if-

- (a) as a result of the comments made under regulation 20 the Agency is of the opinion that a general public hearing will enable it to make a fair and just decision;
- (b) the Agency considers it necessary for the protection of the environment and promotion of good governance; and
- (c) the Agency has reason to believe that the proposed project may have transboundary environmental impacts.

23. General Public hearing

(1) The general public hearing shall be held within such period as the Agency in consultation with the Lead Department may determine, but which period shall not be less than thirty working days not more than forty working days of receiving comments under sub-regulation(4) of regulation 20.

(2) The general public hearing shall be presided over by a suitably qualified person known as a mediator appointed by the Executive Director

(3) The person appointed under sub-regulation (2) shall serve on such terms and conditions as the Lead Department and the person so appointed may agree.

(4) Notwithstanding sub-regulation (3), the scope of the public hearing determined in the terms and conditions under sub-regulation (4) shall be commensurated with the nature and size of the project.

(5) The public hearing shall be conducted at a venue which shall be convenient and accessible to those persons who are likely to be specifically affected by the project.

(6) The date venue of the public hearing shall be publicized through the mass media, so as to bring it to the attention of persons most likely to be affected by the project and those persons making comments under regulation 20.

(7) On the conclusion of the public hearing, the mediator shall make a report of the views presented at the public hearing and make factual public hearing was concluded (check for the meaning of this phrase).

24. Persons eligible to make presentations at public hearings

(1) Any person or persons may attend either in person or through a representative and make presentations at a public hearing provided that the mediator shall have the right to disallow frivolous and vexatious presentations, which will lead to the abuse of the hearing.

(2) The developer shall be given an opportunity to answer to a presentation made at the public hearing and to provide further information on the project.

(3) The Environmental Impact Assessment Working Group shall advice on the procedure for the making of presentations at public hearings under these regulations.

PART V – DECISION OF THE EXECUTIVE DIRECTOR ON ENVIRONMENTAL IMPACT STATEMENTS

25. Basis of decision

(1) In making a decision regarding an environmental impact statement under these regulations, the Agency shall take into account-

- (a) the validity of the predictions made in the environmental impact statement under part IV of these regulation;
- (b) comments made under these regulation;
- (c) the report of the mediator at a public hearing under sub-regulation (7) of regulation 23, where applicable;
- (d) analysis of the economic and socio-cultural impacts of the project;
- (e) the adequacy of the proposed mitigating measures and the environment and social management plan; and
- (f) other factors which the Agency considers crucial in the particular circumstances of the project.

(2) The Agency shall make a decision under this regulation within less than sixty working days from the date on which the statement was submitted under regulation 19.

26. Decision of the Executive Director

(1) The Executive Director in taking into account the whole review process may-

- (a) approve the project;
- (a) grant provisional approval based on evidence provided
- (b) require that the project be redesigned including that different technology or an alternative site be chosen;
- (c) refer back the project or part thereof to the developer where there is insufficient information for further study or submission of additional information, including an environment and social management and monitoring plan as may be required to enable the Executive Director make a decision; and
- (e) reject the project.

(2) A decision of the Executive Director under this regulation shall be communicated to the developer within fourteen days of the decision.

27. Conditions of approval of a project

In making his or her decision to approve the project, the Executive Director shall-

- (a) give approval subject to such conditions it deems necessary;
- (b) state the period for which the approval shall remain valid;
- (c) issue a certificate of approval of the project in the form contained in the Schedule B of these regulations.

28. Reasons for denial

(1) Where the Executive Director makes a decision to reject a project of approval under paragraph (e) of sub-regulation (1) of regulation 26, he or she shall state the reasons in writing.

(2) The decision of the Executive Director in accordance with paragraph (d) of sub-regulation 1 of regulation 26 and sub-regulation (1) of this regulation shall be communicated to the developer within fourteen working days of the decision.

29. Cancellation of environmental approval

(1) At any time after the issuance of a certificate of approval of the project, the Executive Director may revoke the approval where-

- (a) there is non-compliance with the conditions set out in the certificate of environmental approval;
- (b) where there is a substantial modification of the project implementation or operation which may lead to adverse environmental impacts;
- (c) where there is a substantive undesirable effect not contemplated in the approval.

(2) A revocation under sub-regulation (1) shall lead to the automatic-

- (a) waive the claim and continue with assessment and review process under these Regulation; or
- (b) withdrawal, the information submitted for the assessment and cancel the review process under these Regulations.

PART VI –MONITORING AND ENVIRONMENTAL AUDITS

30. Self-audit

(1) In executing the proposed project, after the environmental impact assessment has been approved by the Agency, the developer shall

take all practicable measures to ensure that the predictions made in the screening form or environmental impact statement are complied with.

(2) Within a period of not less than twelve months and not more than thirty six months after the completion of the project or the commencement of its operations, whichever is earlier, the developer shall undertake an initial environmental audit of the project, provided that an audit may be required sooner if the project is shorter than the period prescribed under this sub-regulation.

(3) The initial environmental audit under sub-regulation (2) shall be carried out by persons whose names and qualifications have been approved by the Agency for the purpose.

(4) Subsequent to the initial environmental audit, the Agency may require the developer to carry out such other audits at such times as the Agency considers necessary.

(5) An environmental audit report shall be prepared after each audit and shall be submitted to the Agency by the developer

31. Audit by the Agency

(1) An inspector designated under section 41 of the Act may, at all reasonable times, enter on any land, premises or other facility related to a project for which a project brief, or an environmental impact statement has been made under these regulations, to determine how far the predictions made in the project brief, or the environmental impact statement, whichever the case may be are complied with.

(2) An inspector acting pursuant to this regulation may examine and copy records and exercise all or any of the powers provided for under section 42 of the Act.

(3) A member of public, after showing reasonable cause, may petition the Agency, to cause an audit to be carried out on any project.

32. Mitigation measures

(1) After studying the audit report made under regulations 28 and 29, the Agency may require the developer to take specific mitigation measures to ensure compliance with the predictions made in the project brief, or environmental impact statement whichever the case may be.

(2) The mitigation measures in sub-regulation (1) shall be communicated to the developer in writing, specifying the period within which the measures shall be taken

(3) Where a developer fails to implement the mitigation measures communicated under sub-regulation (2), an inspector may issue against such as person an improvement notice under paragraph (i) sub-section (1) of section 42 of the Act and commence such criminal and civil proceedings provided for under the statute as are appropriate.

PART VI I –MISCELLANEOUS PROVISIONS

33.Environmental impact assessment of policies and Programmes

(1) Policies under schedule of the Act and any other polices with potential impacts on the environment shall be assessed and a strategic environmental assessment report submitted to the Agency for approval or otherwise.

(2) A strategic environmental assessment of a policy under these regulations does not exclude the need to assess the environmental impact of specific project proposed in accordance with the policy.

(3) The Agency may, in approving the terms of reference of an environment impact study for a project under regulation 10, exclude those general matters which have already been covered in the assessment of an earlier policy.

(4) A previous environmental impact assessment of a similar project under these regulations does not exclude the environmental impact assessment of a later project.

34. Effect of approval or rejection of a proposed project

(1) No civil or criminal liability, in respect of an approval of a project or consequence resulting from an approved project, shall be incurred by the Agency or any person acting on his or her behalf, by reason of the approval, rejection or denial or any conditions attached to the approval.

(2) The fact that an approval is made in respect of an environmental impact assessment shall afford no defence to any civil action or to a criminal prosecution under any enactment concerning the project or the manner it is operated or managed.

35. Offences

(1) Notwithstanding any license, permit or approval granted under any enactment, any person who commences, proceeds with, carries out, executes or causes to commence, proceed with carry out, execute or the conduct of any project without approval from the Agency under the Act or these regulations, commits an offence contrary to section 53 of the Act and on conviction is liable to a penalty prescribed under that section.

(2) Any person who-

- (a) fails to prepare and submit a project brief to the Agency contrary to regulations 5 and 6;
- (b) fails to prepare and submit an environmental impact statement contrary to regulations 13, 14,15 and 16; and
- (c) is in breach of any condition of approval of the environmental impact assessment,

commits an offence contrary to section 53 of the Act and on conviction is liable to the penalty prescribed under that section.

36. Appeals

Notwithstanding the provisions of regulation 33, any person who is aggrieved by any decision of the Executive Director may, within thirty working days of the decision, appeal to the Council.

37. Delegation of powers and functions

The Executive Director may, where necessary, delegate any of the functions and powers under these regulation to any other qualified officer of the Agency or to a lead agency.

SCHEDULES

SCHEDULE A

**NATIONAL ENVIRONMENT MANAGEMENT ACT,
Cap. 72.01**

APPLICATION FOR ENVIRONMENTAL APPROVAL

ENVIRONMENTAL IMPACT ASSESSMENT SCREENING FORM

Please type or print clearly, completing this form in its entirety. You may provide additional information on a separate sheet of paper if necessary. Kindly note that the information you are to provide is required by section 22 of the National Environmental Management Act of 1994 and it is an offence to give inaccurate information under section of the same Act.

SECTION 1: INFORMATION ON THE CONTACT PERSON

Name _____

Institutional Affiliation _____

Business Title/ position _____

Business Address

Telephone _____ Fax _____ Email _____

For official use only	
Reviewed by:	Date:
Classified A B C	
Reasons for the Classification:	
Endorsed by:	Date:
Approved by Executive Director:	Date:

**Please returned the completed form to the
Executive Director, National Environment Agency, Jimpex Road,
Kanifing, PMB 48, BANJUL, The Gambia.
Tel (220) 228056 - Fax: (220) 229701 email-nea@gamnet.gm**

SECTION 2: DESCRIPTION OF THE PROPOSED PROJECT

Name of Proposed Project _____

Date expected to start construction _____

Proposed location of project _____
(Attach a map or maps, covering the proposed site and surrounding 5
Km radius)

Land Area _____
(Approximate land area and of proposed location)
Current Land Use (Describe how the land is being used at present)

Describe any Possible Alternative Site(s) _____

Describe other types of industries or facilities (including health centers
and school) which are located within 100 metres of the site, or are
proposed to be located near the proposed facility. Indicate the
proximity of the proposed industrial site to residential areas, national
parks or areas of ecological, historical or cultural importance.

Indicate whether adequate infrastructure exists at the proposed
location, or whether new buildings, roads, electricity and water lines, or
drainage systems will need to be constructed as a part of the proposed
project.

SECTION 3: EMPLOYEES AND LABOURERES

Number of people to be employed:

Employees and Labourers	During Construction	During Routine Operation
FULL - TIME		
FULL – TIME		

Indicate whether you plan to construct housing/sanitation facilities for temporary or permanent workers.

SECTION 4: DESCRIPTION OF INDUSTRIAL PROCESS

Briefly describe the type and nature of industrial processes to be conducted at the installation.

State the type and quantity of energy to be used (including the origin of the energy, i.e. public utility, on site generator, wood, solar, wind, etc)

Type(s) and source	Quantity	Period (per day/week/etc.)

Estimate the quantities of water to be used for the following:

Use(s) of water	Quantity	Period	Source
Cooling			
Steam Generation			
Production process			
Other			

List the type and quantity of raw material to be used per year in the production process (including soil, sand, cement, aggregates, wood animals, etc). Identify if the sources of all raw materials.

Type	Quantity	Source

List all of the chemical expected to be used for any aspect of the production process (A separate list may be attached with more detailed information)

Name /Type	Description	Quantity

SECTION 6: PRODUCTS

Briefly state the nature of the product(s) or output of the proposed facility, and the expected quantities on a quarterly or annual basis. Indicate the intended uses of the product(s).

Name of Product/Output	Description of Uses	Anticipated Output per Qtr/Yr

SECTION 7: BY – PRODUCTS, WASTE MANAGEMENT AND DISPOSAL

Specify the nature of each waste or by-product and the quantity to be generated

Type	Description	Quantity in Kg per wk/mo
Solid (Bulk)		
Solid (particulate)		
Liquid		
Gaseous		
Other		

Proposed method of disposal or management of wastes (e.g. burning, bury etc.)

Type of waste	Method of Disposal /Management

Indicate sources of noise pollution, the type/quality of noise (i.e. machinery/ repetitive pounding, etc.)

Source of Noise	Type of Noise

SECTION 8: ENVIRONMENTAL IMPACTS

Please indicate environmental impacts that may occur as a result of the proposed project

Nature of Impact	Y/N	Brief Description of the Anticipated Impacts
Air Quantity		
Drainage		
Landscape		
Forest Cover		
Vegetation		
Human population		
Animal population		
Soil Quality		
Soil Erosion		
Water Quality		
Tranquility/Noise		
Special Habitats		
Other		

SECTION 9: PROPOSED MITIGATION MEASURES

Indicate whether measures are being considered to mitigate against damage likely to be caused by the proposed project to human health and/or the environment. Briefly describe these measures

Air Pollution	
Water Pollution	
Noise Pollution	
Removal of vegetation	
Wastes	
Displacement of human populations	
Destruction of fish habitats	
Soil Erosion	
Others	

State any and all experience you have with implementing the above mentioned mitigation measures. If you do not have prior experience, what skills do you possess to implement these mitigating measures?

What staff training will be provided to ensure compliance with health and environmental safety standards?

SECTION 10: TESTIMONY

I confirm that the information provided herein is accurate to the best of my knowledge. I will also endeavour to provide additional information and facilitate a site visit if required.

Signed: Developer

Date

SCHEDULE B

Screening list Class A Project Requiring Full Environmental Impact Study

i. General

Major change in land use

Any national or divisional development plan

Conversion of greenbelts, agricultural lands and Buffer Zones of over 20 ha in urban area

Major structures within 150 metres of the high water mark

ii. Urban Development, Including:

New residential layout of over 10 hectare or residents of more than 1000 persons

Any hotel of more than four floors, 10 hectares or 500 rooms

Town centre shopping centres and complexes of more than 5 hectares ground area and out of town shopping centres.

Establishment of industrial estates

Establishment of free economic zones

Establishment or expansion of recreational townships and parks

iii. Transportation, Including:

Major roads of more than 10 Kilometers in length.

All roads in scenic, wooded, hilly, wetlands and bio-diversity rich areas.

Bridges

Railway lines

Ports and marinas

Water, gas or oil pipelines

Airports and runways

iv. Dams, rivers and water resources, including:

Storage dams, barrages and weirs

Flood-control schemes

Re-channeling of rivers, streams or creeks

Diversion of rivers, streams or creeks

Drilling for the purposes of utilizing ground water resources, including geothermal energy.

v. Large Scale fisheries, including

Aqua –culture farm of more than 5 hectares

Aqua – culture farm intending to import or use exotic species.

vi. Mining including quarrying:

Any open cast mine of more than 10 hectares or exceptionally smaller mine in a culturally or ecologically sensitive area.

Exploration for the production of hydrocarbon in any form

Offshore mining activities

vii. Forestry related activities, including:

Clearance of forest areas of more than 10 ha per year

Establishment of wood plantations of more than 10 hectares

viii. Agriculture, including:

Large scale farms of more than 10 hectares.

Poultry of more than 100 birds.

Rearing of 500 or more sheep, goats or pig.

Rearing of more than 200 cattle.

Use of new pesticides

Exceptionally a smaller farm in an ecologically sensitive or densely populated urban area.

ix. Industries, including:

Mineral processing, reduction of ores and minerals

Smelting and refining of ores and minerals

Foundries

Cement works and lime processing

Glass works

Fertilizer manufacture or processing

Explosive plants

Oil refineries and petro-chemical works

Training and dressing of hides and skins

Abattoirs and meat processing plants

Chemical works and process and plants

Brewing and malting

Pulp and paper mills

Food processing plants

Plants for the manufacture and assemble of motor vehicle

Plants for the construction or repair of aircraft or railway equipment

Pants for the manufacturing or processing of rubber

Manufacturing plant of over 10 ha

x. Electrical infrastructure, including:

Electricity generating stations of more than 10 megawatts

High voltage Electrical transmission lines

Pump- storage schemes

xi. Management of hydrocarbons, including:

Fuel farms, including heavy fuel and engine oil

Liquefied petroleum gas storage farm

xii. Waste disposal, including:

Landfills sites of over 20,000 year

Incinerators

Sewage treatment and disposal works

Major atmospheric emissions

Offensive odours.

Screening list Class B

Project Requiring Limited Environmental Study (Preliminary Environmental Impact Assessment)

xiii. General

Minor change in land use

Changes from agricultural or greenbelt within the Greater Banjul Area

xiv. Urban Development, Including:

New residential layout of between 2 and 10 hectare or residents of between 200 and 1000 persons

Establishment or expansion of recreational areas in buffer zones or green belts

Town centre shopping centres and complexes of between 2 and 5 hectare ground area and out of town shopping centres.

Market of more than 5 hectares

Fish market

Fruit and vegetable market

xv. Transportation, Including:

Resurfacing of major roads.

Landing sites with piers of more than 20 metres long

Air fields of less than 10 hectares

Rehabilitation of bridges

xvi. Fisheries

Aqua –culture of less between 2 and 5 hectares area using indigenous species.

xvii. Mining, Including quarrying:

Sand, clay or gravel of between 2 and 5 hectares.

xviii. Forestry related activities, including:

Clearance of forest area of more than 1 hectare

Establishment of wood plantations of more than 5 hectares

xix. Agricultural, including:

Large scale farms of more than 5 hectares

Animal farm of more than 2 hectares and or 50 animals break down into fowls, sheep, cattle etc.

xx. Industries, including:

Dry process plastic factories.

Brick and earthenware manufacture

Fish processing plants.

Mechanical workshops and saw mills

Bulk grain process

Vegetable oil processing and packaging.

Packing factories

Electrical appliances assembly plant

Plants for the manufacture of tanks, reservoirs and sheet-metal containers

xxi. Management of hydrocarbons, including:

Fuel filling stations

Liquefied petroleum gas bottling plants

**Screening list Class C
Project Requiring No Environmental Study**

xxii. General

Minor change in land use

xxiii. Urban Development, including:

New residential layout of less than 2 hectare or residents of less than 100 persons

Establishment or expansion of recreational areas in buffer zones or green belts

Town centre shopping centres and complexes of less than 1 hectare ground area.

xxiv. Transportation, Including:

Minor roads and resurfacing of minor roads.

Landing sites

Water pipelines

Rehabilitation of bridges

- xxv. Aerial Spraying**
- xxvi. Disaster relief**
- xxvii. Fisheries**

Artisanal fisheries

Aqua-culture of less than 2 hectares in areas using indigenous species.

xxviii. Mining, including quarrying:

Sand, clay or gravel of less than 2 hectares.

Collection of overburden and sieved pebbles and small gravel from mines.

xxix. Management of hydrocarbons, including:

Premixed fuel stations.

SCHEDULE C - Issues to be considered in Making Environmental Impact Assessments

NATIONAL ENVIRONMENT MANAGEMENT ACT, Schedule A Part B

The following issues may, among others, be considered in the making of environmental impact assessments-

Ecological Consideration, in particular biological diversity;

Effect of proposal on number, diversity, breeding habits, etc of wild animals and vegetation.

Gene pool of domesticated plants and animals, e.g. monoculture vs. Wild types.

Sustainable use including -

- (a) effect of proposal on soil fertility;
- (b) breeding populations of fish and game; and
- (c) natural regeneration of woodland and sustainable yield.

Ecosystem maintenance, including-

- (a) effect of proposal on food chains;

Environmental Impact Assessment Regulations, 2014

- (b) nutrient cycle;
- (c) aquifer recharge, water run-off rates; etc.
- (d) areal extent of habitats.

Social consideration, including-

- (a) Effect of proposal on generation or reduction of employment in the area;
- (b) Social cohesion or disruption;
- (c) Effect on human health;
- (d) Immigration or emigration;
- (e) Communication – roads opened up, closed, re- routed; and
- (f) Local economy.

Landscape including-

- (a) Views opened up or closed;
- (b) Visual impacts (features, removal of vegetation, etc);
- (c) Compatibility with surrounding areas; and
- (d) Amenity opened up or closed, e.g. recreation possibilities.

Land Use-

- (a) Effects proposal on current land uses and land use potential in the project area;
- (b) Possibility of multiple use; and
- (c) Effects of proposal on surrounding land uses and land use potentials.

MADE THIS 27th DAY OF August 2014.



HIS EXCELLENCY SHEIKH PROFESSOR
DR ALHAJI YAHYA A. J. J. JAMMEH – NASIRUDEEN BABILIMANSA
PRESIDENT OF THE REPUBLIC OF THE GAMBIA AND
CHAIRMAN OF THE NATIONAL ENVIRONMENT MANAGEMENT COUNCIL