



The SEA Directive

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1. Overview of Environmental Assessment

The prior assessment of Plans and Projects is regarded as a key step in the move towards sustainable development within the European Union. The initial stage of environmental assessment was the adoption in 1985 of the Directive on the Environmental Assessment of certain Projects. This Directive required that an Environmental Impact Statement (EIS) be prepared in respect of specified public and private projects that are likely to have significant effects on the environment. This Directive was amended in 1997. The Amsterdam Treaty of 1997 confirmed sustainable development as an objective of the EU and required that environmental protection be integrated into all EU policies. The SEA Directive, adopted in June 2001, is seen as an important tool in integrating environmental concerns into plans and programmes developed by the public sector.

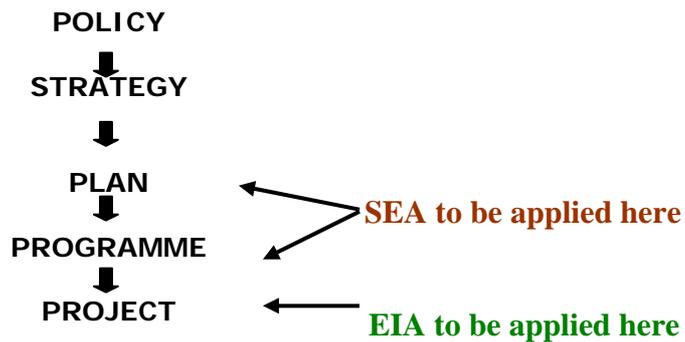
2. Forms of Environmental Assessment

In general, decisions by public and private bodies can be made at two levels:

1. **Strategic level** concerning Policies, Legislation, Plans and Programmes
2. **Project level** for the implementation of a specific Project.

Environmental assessment at project level (e.g. a motorway) is termed **Environmental Impact Assessment** (EIA). The objective of EIA is to provide decision makers with relevant environmental information before formal decisions are made on implementation of the project. EIA has been in operation in Ireland for over 15 years and is regarded as a mature and standard process. The general principles of EIA, as practiced in Ireland and in other Member States, is that it must be Preventative, Scientific, Transparent and Participative, and it must deal with broad environmental concerns.

The assessment of policies, legislation, plans and programmes is commonly called **Strategic Environmental Assessment**. It has a similar goal and approach to EIA but with a different focus of attention and a less quantitative methodology. The expression 'SEA' is not used in any EU legal documentation but is commonly used to refer to the 2001 Directive on Environmental Assessment of certain Plans and Programmes. In the initial consideration of this Directive consideration had been given to the possible inclusion of Policies but, in the end, it was agreed to limit the assessment to Plans and Programmes. EIA and SEA are based on the precautionary principle and represent a preventative approach to environmental problems. The figure below illustrates the normal hierarchy of decision-making and the associated assessment procedure.



While focused on public sector plans, the SEA directive has implications for private sector projects. The stimulus for many private projects (energy, telecommunications, waste management etc.) often arises from plans developed years earlier by a public sector body. In such circumstances it is expected that the prior application of SEA at Plan level will facilitate the approval process at project level.

3. The SEA Directive

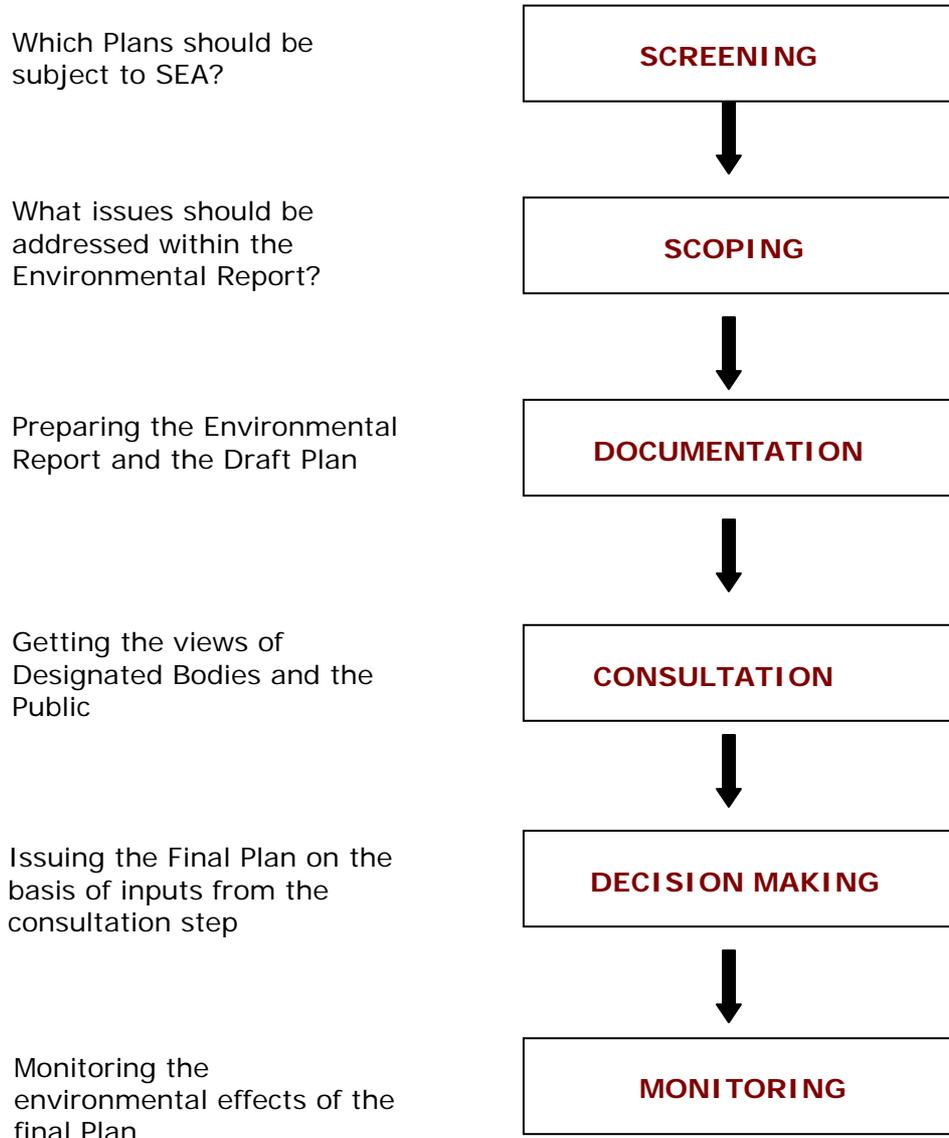
This new Directive (2001/42/EC) requires that a process known as Strategic Environmental Assessment must be applied to plans and programmes prepared by public sector bodies. SEA mirrors in many ways the existing procedure for environmental assessment of projects such as motorways and large factories. The Directive came into operation in Ireland in July, 2004.

The key requirements of the Directive may be summarised as follows:

- The screening of Plans, at drafting stage, to determine if SEA is required
- The scoping and preparation of an Environmental Report
- Public consultation on the Draft Plan and the Environmental Report
- The modification of the Plan, where appropriate, on the basis of the inputs from the consultation stage
- The adopted Plan must incorporate conditions for monitoring of the significant environmental effects.

The main steps in the SEA procedure are illustrated below.

THE SEA PROCESS: KEY STEPS



The SEA process must be very transparent. Designated environmental bodies must be consulted in determining whether certain plans are likely to have a significant environmental effect. The designated bodies must also be consulted on which environmental issues should be addressed within the environmental report. The designated bodies and the public must be allowed sufficient time to comment on the draft Plan and the Environmental Report. When a Plan has been adopted a report must be issued by the Plan maker showing how account was taken of the Environmental Report and the results of the consultations.

4. When is SEA required?

The Directive applies to a wide range of public bodies but does not apply to the private sector. However certain private bodies (e.g. Water Companies in the U.K.) which have obligations to prepare Plans equivalent to those of some public bodies would be covered by the Directive. The Directive does not apply to all Plans by public bodies. Plans which are prepared voluntarily by public bodies need not be assessed. However, some bodies may wish to be proactive and apply the process to all Plans as an example of good practice and environmental leadership. Many countries within the EU carried out SEA years before there was a legal requirement to do so.

An SEA must always be carried out,

- When a Plan or Programme in one of the following sectors sets a framework for projects which are listed under the EIA Directive. The sectors are:
 - Agriculture, Forestry, Fisheries, Energy, Industry, Transport, Waste Management, Water Management, Telecommunications, Tourism, Town and Country Planning or Land-Use.
- When a Plan or Programme could impact on a Habitat protected under the Habitats Directive (92/43/EEC).

The Directive applies also to modification of relevant Plans. There are a small number of exclusions in respect of such areas as Plans and Programmes solely for defence or civil emergency purposes or of a budgetary or financial nature. An exclusion is allowed in respect of Plans which determine the use of small areas at local level and minor modifications to Plans in cases where the Member State determines that they are not likely to have significant environmental effects. In addition, under Art. 3 (5), an assessment is also required in respect of any Plan

that sets a framework for development consent of projects which are likely to have a significant environmental effects.

Thus certain Plans must be assessed in all circumstances while other Plans must be assessed only where they are likely to have significant environmental effects. Annex II of the Directive sets out criteria which must be taken into account when determining whether significant effects are likely.

Screening is a procedure which is used to determine whether a Plan should be subject to SEA. Public bodies prepare a very large number of plans and programmes in respect of a wide variety of subjects and it is neither practical nor necessary to submit all of these to SEA. Screening serves to restrict the SEA process to those Plans which are likely to have the most significant environmental impact. If the screening exercise for environmental significance shows that SEA is not considered necessary then a report justifying that conclusion must be made available to the public

The aspects of the environment to be considered include but are not limited to:

Biodiversity, Population, Human Health, Fauna,
Flora, Soil, Water, Air, Climatic Factors, Material
Assets, the Cultural Heritage, The Landscape, and
the interrelationship between the above.

The impacts to be considered include secondary, cumulative, synergistic, short, medium and long-term permanent and temporary, positive and negative effects.

5. Preparing the Environmental Report

It is very important for the Environmental Report to be of high quality as it will provide the basis for the consultation process and the decision-making. In many cases it will be robustly examined by interested parties such as NGOs, designated public bodies and other interested parties. The information to be contained in the Environmental Report is set out in Annex I of the Directive. The Report must contain a non-technical summary so as to aid non-specialists in understanding the content and implications of the Report.

6. Irish Regulations on SEA

The SEA Directive is implemented by means of two Statutory Instruments: S.I. 436 in respect of Land use Plans and S.I. 435 for other types of Plans.

S.I. 436 on Land use Plans is based on procedures established initially in the Planning and Development Act 2000 and makes SEA mandatory for the following Plans:

- City and County Development Plans
- Town Council Development Plans and Local Area Plans where Population >10,000
- Regional Planning Guidelines
- Planning Schemes for Strategic Development Zones

Development Plans by Town Councils and Local Area Plans where the population is less than 10,000 and Variations of Development Plans should be subject to SEA in cases where a significant environmental effect is likely.

The second Regulation (S.I. 435) sets out the requirements of the Directive in respect of the environmental assessment of Plans other than the land use plans of S.I. 435. In addition to the types of Plans established in the Directive SEA is also required in respect of any Plan which could have a significant impact on a European site.

The Regulations establish the designated environmental bodies and set out details the time requirements for consultation and the minimum provisions for the public availability of documentation

The designated environmental bodies which must be consulted on screening and scoping are as follows:

- EPA, always, and either or both
- Minister for Environment, Heritage and Local Government
 - Architectural, Archaeological Heritage and Nature Conservation
- Minister for Communications, Marine and Local Government
 - Fisheries and Marine Environment

7. Legislation and Guidance Notes

The SEA Directive and Irish Legislation on SEA is available on the Web site of the Dept. of the Environment, Heritage and Local Government (www.environ.ie), in the Planning and Development section. That web site also includes a Guidance Note on SEA issued to Planning Authorities in Nov. 2004.

Comprehensive SEA information is available on the web site of the Environmental Protection Agency (www.epa.ie) including EPA customer service/contact details, methodologies for plans & programmes in Ireland, environmental issues, sectoral breakdown and links to additional information.

(<http://www.epa.ie/TechnicalGuidanceandAdvice/StrategicEnvironmentalAssessment/>)

A Guidance Note issued by the European Commission on implementation of the SEA Directive is to be found at

<http://europa.eu.int/comm/environment/pubs/home.htm>

The UK government has issued "A draft practical Guide to the SEA Directive"

which can be found at <http://www.odpm.gov.uk>