



Tonga

**REGISTRATION OF ENVIRONMENTAL
IMPACT ASSESSMENT CONSULTANT'S
REGULATIONS 2021**



REGISTRATION OF ENVIRONMENTAL IMPACT ASSESSMENT CONSULTANT'S REGULATIONS 2021

Arrangement of Sections

Regulation

1	Short Title and commencement	5
2	Interpretation.....	5
3	EIA Consultant Certificate.....	6
4	Application for an EIA Consultant Certificate	6
5	Review Panel	7
6	Grant of an EIA Consultant Certificate	7
7	Categories of consultants	7
8	EIA Study Team	8
9	Responsibilities of the principal consultant	8
10	Responsibilities of senior consultants	8
11	Responsibilities of the assistant consultants	8
12	Register of EIA Consultants	9
13	Contents of Register.....	9
14	Amendments to Register.....	9
15	Online submission.....	9
16	Code of Conduct	10
17	De-registration and non-renewal of registration	10
18	Offences.....	10

SCHEDULE 1 **11**

AREAS OF EXPERTISE 11

SCHEDULE 2 **15**

FEES 15

SCHEDULE 3	16
CODE OF CONDUCT	16
FORM 1	17
FORM 2	19



REGISTRATION OF ENVIRONMENTAL IMPACT ASSESSMENT CONSULTANT'S REGULATIONS 2021

ENVIRONMENTAL IMPACT ASSESSMENT ACT [CAP 21.04]

IN EXERCISE of the powers conferred by section 24 of the Environmental Impact Assessment Act [Cap 21.04], the Minister responsible for environment, with the consent of Cabinet, makes the following Regulations -

1 Short Title and commencement

- (1) This Regulation may be cited as the Registration of Environmental Impact Assessment Consultant's Regulations 2021.
- (2) These Regulations shall come into force on the date of gazettal.

2 Interpretation

In these Regulations, unless the context otherwise requires –

“**Act**” means the Environmental Impact Assessment Act [Cap. 21.04];

“**CEO**” means the Chief Executive Officer responsible for Environment;

“**certificate**” means the EIA Consultant Certificate issued under these Regulations;

“**court**” means the Supreme Court of Tonga;

“**EAC**” means the Environmental Assessment Committee established under section 13 of the Act;

“**EIA**” means environmental impact assessment;

“**EIA Regulations**” means the Environmental Impact Assessment Regulations [Cap. 21.04.01];

“**local consultant**” means any consulting firm or individual who is a locally recognized specialist or authority in a professional technical field. A Tongan citizen or resident for more than 5 years, and is physically in Tonga during the time of service provided;

“**Minister**” means the Minister responsible for Environment;

“**Ministry**” means the Ministry responsible for Environment;

“**overseas consultant**” means any consulting firm or individual who is recognized abroad by a recognized institution as a specialist or authority in a professional technical field; and

“**Register**” means the Register of EIA Consultants established under regulation 12 of these regulations.

3 EIA Consultant Certificate

- (1) Any person who conducts an environmental impact assessment under the Act and EIA Regulations shall hold a valid EIA Consultant Certificate.
- (2) The Minister shall refuse any environmental impact assessment prepared by a person who does not hold a valid EIA Consultant Certificate.

4 Application for an EIA Consultant Certificate

- (1) An application for an EIA Consultant Certificate shall be –
 - (a) in Form 1;
 - (b) accompanied by –
 - (i) the prescribed fee provided in Schedule 2;
 - (ii) a police record issued within 6 months before the date of submission of the application, from every country that the applicant worked in during the past five years; and
 - (iii) information as to any corporation or partnership of which the consultant is a member or employee; and
 - (c) filed with the CEO.
- (2) If an applicant’s supporting documents are not in the English language, the applicant shall provide a certified translation of those documents.
- (3) Subject to regulation 17, registration shall be valid for 2 years and is renewable on application and payment of the renewal fee set out in Schedule 2.

5 Review Panel

- (1) The CEO shall convene a Review Panel to consider an application and make recommendation on the suitability of the applicant for registration.
- (2) The Review Panel shall comprise of the following –
 - (a) CEO shall be the Chair ;
 - (b) one senior officer from the Ministry with the relevant technical expertise;
 - (c) one from the Ministry, agency or body whose mandate the major project to be assessed falls under; and
 - (d) a technical expert in the relevant area under assessment.
- (3) The Review Panel –
 - (a) may request further documents from the applicant;
 - (b) may interview the applicant;
 - (c) may obtain advice from technically qualified persons as to the suitability of the application for registration; and
 - (d) shall , as soon as practicable, reach a decision on the application.
- (4) The Review Panel shall upon reaching a decision, recommend to the CEO, to grant or decline the application for EIA Consultant Certificate.
- (5) The Ministry shall provide secretariat services to the Review Panel.

6 Grant of an EIA Consultant Certificate

- (1) The CEO, shall grant a person an EIA Consultant Certificate, upon the recommendation of the Review Panel.
- (2) The EIA Consultant Certificate shall be in Form 2.

7 Categories of consultants

- (1) The categories of consultants are as follows –
 - (a) principal consultant;
 - (b) senior consultant; and
 - (c) assistant consultant.
- (2) Upon application for registration, an applicant shall select an area, or areas of expertise from the list provided in Schedule 1.
- (3) The CEO shall issue and publish the criteria for registration in each category of consultants.
- (4) A person can apply to be registered in only one category.

- (5) A person wishing to change the category of registration shall apply for fresh registration, paying the appropriate fee.

8 EIA Study Team

An EIA study team shall consist of –

- (a) a principal consultant as the team leader; and
- (b) any number of senior consultants and assistant consultants.

9 Responsibilities of the principal consultant

The principal consultant shall be responsible for the following matters –

- (a) selection of team members who shall meet the relevant qualification and work experience for the project;
- (b) ensure that every team member is registered under these Regulations;
- (c) undertake the scoping exercise for the study;
- (d) prepare the Terms of Reference to be approved by the CEO;
- (e) coordinate and assign tasks to team members;
- (f) ensure that all team members act appropriately according to the Code of Conduct in Schedule 3;
- (g) quality control of the report; and
- (h) submission of final report.

10 Responsibilities of senior consultants

The senior consultant shall –

- (a) assist the principal consultant in their obligations specified in Regulation 9;
- (b) adhere to and perform the tasks allocated to them diligently; and
- (c) act appropriately throughout the EIA study according to the Code of Conduct in Schedule 3.

11 Responsibilities of the assistant consultants

The assistant consultants shall be responsible for the following matters –

- (a) assist the principal and senior consultant in any of their obligations;
- (b) adhere to and perform the tasks allocated to them diligently; and
- (c) act appropriately throughout the EIA study according to the Code of Conduct in Schedule 3.

12 Register of EIA Consultants

- (1) There shall be a Register of EIA Consultants maintained by the CEO.
- (2) The CEO may publish a list of registered consultants on the Ministry's website.
- (3) The Register may be kept in a form that the CEO thinks fit, including, partly or wholly, in electronic form, provided that the CEO shall have regard to facilitating the search or inspection of the register by members of the public.
- (4) Any person may, on payment of the prescribed fee –
 - (a) search or inspect the Register; or
 - (b) on request, obtain a copy of an extract from the Register.
- (5) A search or an inspection made at the office of the Ministry shall be made during the hours when the office is open to the public for business on a working day.

13 Contents of Register

The Register shall contain the following information –

- (a) the name of the consultant;
- (b) the current holder's contact details, including email address;
- (c) the registration number and date of issue of the certificate;
- (d) registration category;
- (e) area(s) of expertise;
- (f) if the certificate has been de-registered under regulation 17, the effective date of de-registration and the grounds for de-registration; and
- (g) documents filed under this Regulations for registration on the Register.

14 Amendments to Register

- (1) The CEO may amend the Register as required, to –
 - (a) update information;
 - (b) correct or delete information wrongly entered in the Register; or
 - (c) include information wrongly omitted from the Register.
- (2) The CEO shall give written notice to the relevant consultant of any amendment under sub-regulation (1).

15 Online submission

A person may file a document with the CEO in any format permitted by the CEO, in accordance with the procedures established by the CEO from time to time.

16 Code of Conduct

All EIA consultants shall observe the Code of Conduct in Schedule 3.

17 De-registration and non-renewal of registration

- (1) The CEO may de-register a consultant or refuse to renew an application for registration on the grounds that the consultant has –
 - (a) breached the Code of Conduct;
 - (b) been found guilty of an offence under these Regulations; or
 - (c) not performed his duties under the Act or these Regulations to a satisfactory level.
- (2) A consultant who is likely to be de-registered or refused renewal shall be given an opportunity to be heard, orally or in writing to the EAC.
- (3) A consultant who is not satisfied with a decision of the CEO under this regulation may appeal to the Minister.

18 Offences

Any person who –

- (a) conducts an environmental impact assessment without a valid EIA Consultant Certificate;
- (b) provides false information in order to obtain an EIA Consultant Certificate; or
- (c) provides false information in an EIA report which may have detrimental impact in the environment under study if the major project is allowed to proceed,
commits an offence and is liable on conviction to a fine not exceeding \$5000 or a term of imprisonment not exceeding 2 years or both.

Made in Nuku'alofa on this 1st day of **December , 2021.**

Hon. Poasi Tei
Minister responsible for Environment

SCHEDULE 1

AREAS OF EXPERTISE

1. Animals and Agriculture

- Abattoirs
- Cattle feedlots or intensive piggeries in excess of 50 animals
- Poultry farms
- Other intensive agriculture including research areas
- Large scale irrigation for agriculture
- Agriculture pollution control

2. Food Related and Horticulture

- Brewery works
- Canning and bottling works in excess of floor space 2000 square meters
- Sugar refineries
- Packing factories
- Grain mills
- Large plantations
- Large scale irrigation for horticulture

3. Waste Management

- Municipal or other waste disposal, treatment or conversion facilities
- Waste water treatment plants
- Medical waste disposal
- Waste storage
- Recycling plants
- Depositing/dumping of waste or other materials
- Environmental engineering
- Hazardous waste treatment

4. Harvesting/Removal/Clearing

- Valuation and impact assessment of removal of trees (including mangroves) or natural vegetation
- Valuation of natural resources (or of high value resources), including sandalwood, sea sponges, coral, shells, natural vegetation, and sea grass

5. Infrastructure

- Construction of roads, wharfs, barrages, embankments or levees which affect the flow of tidal waters
- Wharfs, barrages, embankments or levees which do not affect the flow of tidal waters
- Roads (that do not affect tidal water flow) of all kinds (express roads, access roads, motorways, bridges, tunnels, causeways – but not driveways), including aid projects and extensions/expansions on existing roads
- Power stations, transformer stations, and new transmission lines/networks and extensions of power lines
- Laying of cables (e.g. internet, electricity, etc.)
- Telecommunications sites
- Sewage and water pipe networks, pipelines/expansion of irrigation and drainage installations
- Dams

6. Mining/extraction

- Mining, being an activity that disturbs the surface of the land in excess of one hectare
- Sand, gravel or reef mining where this may have detrimental impacts, including impacts on tidal flow, wave strength reaching the shore, currents, important ecosystems or tourism sites, endangered species, and stability
- Deep sea mining and related activities including prospecting, drilling, mining, piping and construction of necessary structures
- All other drilling, prospecting, or exploration operations
- Metal and mineral extraction
- On shore and offshore pipeline projects

7. Marine structures

- Marinas (comprising pontoons, jetties, piers, dry storage, moorings)
- Farms for the propagation of marine, estuarine or freshwater organisms
- Shipyards
- Ports and harbors
- Artificial reefs or other ecosystems
- Container yards
- Dredging, filling, and land reclamation
- Seawalls and storm breaks, projects to prevent or address coastal erosion

8. Industry and Chemicals

- Cement works
- Chemical factories, or chemical storage areas in excess of 1,000 square meters
- Liquid, chemical, oil or petroleum refineries, storage or waste processing works

- Pre - mix bitumen works
- Rubber or plastics works
- Any facility involving the use, storage or dumping of nuclear materials
- Oil and fat (from vegetables/animals/other) refineries
- Textile production/dyeing facilities
- Tanneries
- Smelting plants
- Paint/solvent/detergent industries
- Pesticide/insecticide production or storage
- Fertilizer plants
- Paper/carton/cardboard factories
- Metal processing or storage
- Manufacturing

9. Forestry

- Sawmills where more than 2,000 cubic meter p.a. of timber is sawn, milled or machined in any way
- Assessment and valuation of deforested and cleared areas

10. Tourism

- Tourism or recreational resorts, buildings or facilities
- Theme parks
- Camp/caravan sites
- Whale watching enterprises and tourism operators on the water
- Other large tourism centers that do not provide accommodation

11. Aviation and transport

- Buildings, works or land associated with the landing, take - off, parking or servicing of air craft or helicopters
- Environment impact of transportation

12. Energy/fuel

- Electricity generating stations
- renewable energy generation and energy/electricity storage
- Liquid, chemical, oil or petroleum refineries, storage or waste processing works
- Separation/treatment of gas or petroleum
- Storage of gas

13. Buildings and housing

- Residential complexes, subdivisions, multiple residential dwellings, urban development projects, apartment buildings, estates
- All structures other than a single private residence
- Community halls, churches, community centers
- Hospitals and medical centers
- Supermarkets/commercial spaces/stores/markets
- Restaurants and cafes larger

14. Other

- Military projects
- Water desalination plants
- Storage of scrap vehicles/iron/metal
- Racetracks
- Large scale film production
- Jet boating or jet ski businesses
- Large annual festivals, sporting events or other events (held over multiple days /involving multiple properties or sites)
- Decommissioning or destruction of any development that would be deemed a major project, or that lies in a sensitive area
- New discharges to water, soil or air from existing industries
- Groundwater abstraction or recharge schemes, groundwater extraction
- Archaeological digs
- Projects that may result in relocation or displacement of people
- Chemistry and microbiology
- Hydrology
- Ecological, systems, disturbances and pollution
- Climate science
- Water quality in marine and terrestrial areas: physical properties
- Air pollution
- Noise pollution
- Environmental Impact Assessment
- Environmental modelling
- Any development or activity that could harm designated or proposed protected areas including conservation areas, national parks, wildlife refuges/preserves/sanctuaries, mangrove conservation areas, forest reserves, fishing grounds (including reef fisheries), fish aggregation and spawning sites, fishing or gleaning areas, fish nursery areas, marine reserves, urban parks, recreational areas and other categories/areas designated by a written law

SCHEDULE 2

FEEES

1 REGISTRATION FEES

Application for registration as an EIA Consultant –

Category	Local Consultants (TOP\$)	Overseas Consultants (TOP)
Principal Consultant	1,300.00	3,900.00
Senior Consultant	900.00	2,700.00
Assistant Consultant	500.00	1,500.00

The above fees are non-refundable.

2 RENEWAL FEES

Category	Local Consultants (TOP\$)	Overseas Consultants (TOP)
Principal Consultant	800.00	2,400.00
Senior Consultant	600.00	1,800.00
Assistant Consultant	400.00	1,200.00

SCHEDULE 3
CODE OF CONDUCT

All EIA Consultants shall –

- act professionally, accurately, fairly and in an unbiased manner in undertaking his work;
- take all due care and diligence to collect the relevant data to assess the environmental issues in the various stages of the environmental assessment;
- not include in the report, without acknowledgement of the source, any data that is not the result of their findings;
- consult widely with all relevant agencies, stakeholders, interested parties and the general public on all matters that are likely to affect them;
- abide by all relevant laws and guidelines;
- keep abreast of emerging trends and issues in the environmental field and shall conduct his profession in accordance with the best available practice taking into account advances in science and technology; and
- declare any potential conflict of interest.

FORM 1

Application for an EIA Consultant Certificate

(Regulation 19)

When completing this application please ensure that all sections are completed and that all requested information is provided

Official use only

Registration No.

Fee payable \$..... (see below)

1 Consultant category –

- Principal Consultant
- Senior Consultant
- Assistant Consultant

2 Personal Information

Family Name

Given Name:

Title:

Address:

Telephone:

Mobile:

E-mail:

3 Work details

Details of any company or partnership of which the consultant is a member or employee:

Company or firm name and address

Position in company or firm

4 Qualification

List all educational qualifications

	Degree	Institution	Year awarded
1.			
2			
3.			

Signed

Date

Company name (if any)

Chief Executive Officer
 Department of Environment
 Vuna Road
 Nuku'alofa
 Tonga

FORM 2

EIA Consultant Certificate



Ministry of Meteorology, Energy, Information, Disaster Management,
Environment, Climate Change and Communications

**ENVIRONMENTAL IMPACT ASSESSMENT
CONSULTANT CERTIFICATE**

This is to certify that _____ of _____ is registered as an
EIA Consultant pursuant to regulation 19 of the *Registration of EIA Consultants
Regulations 2021*, in the category _____ with the following areas of
expertise –

- 1.
- 2.
- 3.

Issue date _____
Expiry date _____

(Insert name)
Chief Executive Officer

[stamp]

Registration No. _

Department of Environment
[address]
[address]
Nuku'alofa
Tonga
Tel.
Email